
MINORITY VIEWS OF VICE CHAIRMAN BOND AND SENATORS CHAMBLISS, HATCH, AND BURR*

This majority-only written report by the Senate Intelligence Committee is a great disappointment to us and an unfortunate commentary on the political nature of intelligence oversight in the Congress today. We regret that at a time when the Committee should be focusing its full attention on improving our intelligence community, closing the gaps in critical intelligence, and making our country safer, that the Committee finds itself again consumed with political gamesmanship. Although we asked from the beginning of this investigation to be included in it, we were cut out; although we asked that the Members of the Committee produce the conclusions on this report, two majority staff were assigned to the task; and although we had over 50 amendments on the table at our Committee meeting on this report, we were not allowed to offer any of them. We have rarely seen such a poorly handled congressional investigation, and we believe the facts detailed below speak for themselves.

Early History

In late 2003 the Democrats first proposed that the Committee expand its inquiry of intelligence on Iraq into how administration policymakers “used” intelligence; frankly, we were not sure what they meant. At the time, it was already becoming clear to the Committee that the intelligence community’s performance in its estimate of Iraq’s weapons of mass destruction capabilities had been a serious failure. Having heard many of the statements those policymakers had made, it seemed obvious to us that they “used” the intelligence on Iraq the same way policymakers in Congress at the time and policymakers in previous administrations had: they read it, made decisions based on what they read (as well as other available information), and they spoke to the American public about their policies and decisions. Once the Committee’s inquiry began to reveal that analysts were not “pressured” by the administration to assess that Iraq had weapons of mass destruction and that, in fact, the intelligence itself was wrong, it appeared that the Democrats wanted to add a more subjective element into the investigation—how policymakers “used” intelligence.

The reason for this initiative became clear in November 2003 when the press exposed a memo which outlined the “plan” by Committee Democrats to explore “vague notions of use” in order to make the greatest political gain from the Committee’s Iraq investigation. They intended to “pull the majority along as far as we can on issues that may lead to new disclosures regarding improper or questionable conduct by administration officials.” The memo said that “we don’t know what we will find but our prospects for getting access we seek is far greater when we have the backing of the majority.” The memo also noted that “we can verbally mention some of the intriguing leads we are pursuing”—presumably to the press and in violation of the Committee rules.

In spite of this disturbing revelation that the Democrats were seeking to politicize deliberately the national security oversight function of the Congress, in an effort toward bipartisan compromise, in February 2004 the Committee agreed to examine “whether public

* I concur with the Vice Chairman’s views on the substance of the report as well as the Minority’s amendments. I am unable to comment on any Phase I or Phase II activities that preceded my membership on this Committee.

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statements and reports and testimony regarding Iraq by U.S. Government officials made between the Gulf War period and the commencement of Operation Iraqi Freedom were substantiated by intelligence information” as part of a second phase of the Iraq inquiry. Given what we had already learned, we warned that this could quickly devolve into an unfortunate use of the Committee’s time and resources, but we were willing to agree to the compromise nonetheless, confident that any *fair* inquiry would show clearly that the statements of administration officials were substantiated by the intelligence available to them at the time, intelligence that, as described in the Committee’s unanimous Phase I report, was flawed.

Unfortunately, the report released today confirmed our early suspicions. The Phase II effort has indeed resulted in a partisan exercise and requests made by the Democrats of the then-Republican Committee leadership from 2004 to 2006 for the inquiry itself and for unnecessary interviews and documents were clearly intended as roadblocks to prevent the inquiry’s completion and to allow bogus charges of “obstruction” intended to help the Democrats’ political goals.

Ironically, but not surprisingly, even when the Democrats gained control of the Committee and were in a position to take their best shot at fashioning a purely partisan inquiry—specifically by instructing only two majority staffers to conduct the review, cutting out the minority entirely, twisting the statements of the policymakers they reviewed, and cherry picking the intelligence that helped best make their case—the reports essentially validate what we have been saying all along: that policymakers’ statements were substantiated by the intelligence. As the Committee’s Phase I report showed, it was the intelligence that was faulty. In the cases in which the majority concluded that statements were not substantiated by intelligence or did not convey fully the intelligence community’s analysis, it is clear that either the words of the policymakers in question or the body of intelligence available at the time were distorted in order to make these false charges. We have addressed each of those cases in the attached amendments in Appendix A (see amendments 42, 68, 85, 86, 96, 119, 120, and 136)

With the partisan elements of this inquiry now fully exposed, we hope that others will see why we are so disappointed that Committee time and resources have been wasted at this critical juncture in our nation’s history. We have not had an Intelligence Authorization Bill become law in this Congress or the last Congress, we have not had a Foreign Intelligence Surveillance Act (FISA) reform bill become law in this Congress—two badly needed bills—both to improve the functioning of the intelligence community and protect the nation. Yet, we have been forced to waste countless man-hours to show what we and the American people already knew four years ago, that policymakers’ statements turned out to be wrong after the war because the statements were based on flawed intelligence. The Committee’s Phase I report, which investigated that intelligence failure and explained how it happened, was a judicious and valuable act of intelligence oversight. Distorting intelligence and misleading the public, as the current majority report does, is not.

We are also disappointed that in a zealous, but ultimately failed, attempt to expose alleged “distortions” by the administration, the majority chose to cover up and distort information themselves. Specifically, the majority report excludes from consideration all of the statements made by Members of Congress and the previous administration that were submitted

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for review by the Republican Members. It also excludes relevant intelligence information requested for inclusion by Republican Members including instances in which the Committee knew that specific policymakers' statements were fact-checked and approved by intelligence community agencies. It treats policymakers unfairly by distorting their words and refusing those individuals the opportunity to respond to what has been alleged about their statements. Because these issues are our most serious concerns about this flawed majority report, we address each in more detail below.

Cover-up for Democrats


Following the Committee's agreement on February 12, 2004, to examine "whether public statements and reports and testimony regarding Iraq by U.S. Government officials made between the Gulf War period and the commencement of Operation Iraqi Freedom were substantiated by intelligence information" the Chairman and Vice Chairman each provided a list of statements their respective Members wanted examined by the Committee staff. In the reports released today, only those statements submitted by the Democrats were reviewed.

The Republican Members of the Committee submitted approximately 100 statements for review. These were statements made by officials in the previous administration and Members of Congress. Many of our Members believed it was relevant and important to include those statements, particularly from Democrats in Congress, to show that during the debate leading up to and during the authorization of the war in Iraq and during previous efforts to use force in Iraq, Members of both parties with access to intelligence information, not just the Republican administration, made very similar statements about Iraq's weapons of mass destruction capabilities and links to terrorism. In our opinion, the statements from most policymakers, whether or not they supported the decision to go to war in Iraq, were similar because everyone saw virtually the same intelligence and used that same intelligence in speeches to explain their own decision-making.


Nuclear

In the nuclear area, for example, the majority report's first conclusion notes that policymakers' statements about Iraq's nuclear activities were substantiated by intelligence, but the majority concludes that some statements did not convey disagreements that existed within the intelligence community. Many Democrats in Congress also discussed Iraq's nuclear efforts during the Iraq war debate and in other venues and similarly did not describe disagreements within the intelligence community.

For example, all of the following statements discussed Iraq's efforts to develop nuclear weapons, but none of them noted that there was a dissent from one of the agencies within the intelligence community. Conversely, the report is critical of administration officials who did not discuss this dissent even though the dissent had not even been published by that agency at the point the statements by the administration officials were made. The majority apparently believes some policymakers should be mind-readers. All of the following statements made by Democrats in Congress were made after the publication of the Iraq WMD NIE in which the nuclear alternative judgment was published, yet none of them was allowed to be included in the report.

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- In the four years since the inspectors left, intelligence reports show that Saddam Hussein has worked to rebuild his chemical and biological weapons stock, his missile delivery capability, and his nuclear program. He has also given aid, comfort and sanctuary to terrorists, including al-Qa'ida members. – **Senator Hillary Clinton**, Congressional Record, October 10, 2002.
 - There is unmistakable evidence that Saddam Hussein is working aggressively to develop nuclear weapons and will likely have nuclear weapons within the next 5 years. He could have it earlier if he is able to obtain fissile materials on the outside market, which is possible—difficult but possible. We also should remember we have always underestimated the progress that Saddam Hussein has been able to make in the development of weapons of mass destruction. **Senator John D. Rockefeller IV**, Congressional Record, October 10, 2002.
 - Saddam Hussein is an evil man, a dictator who oppresses his people and flouts the mandate of the international community. While this behavior is reprehensible, it is Hussein's vigorous pursuit of biological, chemical and nuclear weapons, and his present and potential future support for terrorist acts and organizations, that make him a terrible danger to the people to the United States. **Senator Charles Schumer**, Congressional Record, October 10, 2002
 - There is no question that Iraq possesses biological and chemical weapons and that he seeks to acquire additional weapons of mass destruction, including nuclear weapons. That is not in debate. **Senator Christopher Dodd**, Congressional Record, October 9, 2002.
 - We know that he has chemical and biological weapons. He has already used them against his neighbors and his own people, and is trying to build more. We know that he is doing everything he can to build nuclear weapons, and we know that each day he gets closer to achieving that goal. **Senator John Edwards**, Congressional Record, October 10, 2002.
 - Almost no one disagrees with these basic facts: that Saddam Hussein is a tyrant and a menace; that he has weapons of mass destruction and that he is doing everything in his power to get nuclear weapons; that he has supported terrorists; that he is a grave threat to the region, to vital allies like Israel, and to the United States; and that he is thwarting the will of the international community and undermining the United Nations' credibility. **Senator John Edwards**, Congressional Record, October 10, 2002

The following statement from Senator John Kerry went a step further, claiming that “all U.S. intelligence experts agree that Iraq is seeking nuclear weapons.” In fact, not “all” intelligence agencies assessed that Iraq was seeking nuclear weapons; as noted in the majority report, one agency considered the evidence inadequate to reach such a judgment.

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- According to the CIA's report, all U.S. intelligence experts agree that Iraq is seeking nuclear weapons. There is little question that Saddam Hussein wants to develop nuclear weapons. The more difficult question to answer is when Iraq could actually achieve this goal. That depends on its ability to acquire weapons-grade fissile material. If Iraq could acquire this material from abroad, the CIA estimates that it could have a nuclear weapon within 1 year. **Senator John Kerry**, October 9, 2002.

This comment from Senator Durbin, made nearly a year earlier, actually indicated that Saddam Hussein had "perhaps even nuclear weapons" at his disposal. At no time did the intelligence community assess that Iraq perhaps had nuclear weapons.

- When you look at what Saddam Hussein has at his disposal, in terms of chemical, biological, and perhaps even nuclear weapons, we cannot ignore the threat that he poses to the region and the fact that he has fomented terrorism throughout his reign. **Senator Dick Durbin**, December 21, 2001, Larry King Live.

Why were none of these statements considered worthy of analysis by the majority's review staff, particularly those made by Senators Durbin, Edwards, and Rockefeller, who were all members of the Senate Intelligence Committee at that time, and by Senator Clinton, who has publicly acknowledged being briefed on the NIE?

UAVs

Regarding Iraq's UAV capability, the report notes that some administration statements did not convey disagreements or evolving views within the intelligence community about whether Iraq intended to use UAVs for chemical or biological weapons delivery. The report, however, failed to analyze statements made by Democrats like:


- Saddam's existing biological and chemical weapons capabilities pose real threats to America today, tomorrow. Saddam has used chemical weapons before, both against Iraq's enemies and against his own people. He is working to develop delivery systems like missiles and unmanned aerial vehicles that could bring these deadly weapons against U.S. forces and U.S. facilities in the Middle East. He could make these weapons available to many terrorist groups, third parties, which have contact with his government. Those groups, in turn, could bring those weapons into the United States and unleash a devastating attack against our citizens. I fear that greatly. **Senator John D. Rockefeller IV**, Congressional Record, October 10, 2002.
- In addition, Iraq is developing unmanned aerial vehicles UAVs, capable of delivering chemical and biological warfare agents, which could threaten Iraq's neighbors as well as American forces in the Persian Gulf. **Senator John Kerry**, Congressional Record, October 9, 2002.

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"Intent"

In a section titled "Intent" the majority report includes statements from several administration officials which discussed their concerns about what Saddam Hussein could do with his weapons of mass destruction considering his disdain for the United States and his long association with terrorist groups. We believe that these statements were not about Iraq's "intent" at all, as the majority report says, but were explaining that with a lack of information about Iraq's intent, these policymakers were concerned about Iraq's capabilities. We note that many Democrats also expressed the same concerns about the threat Iraq posed or might have posed to the United States due to his weapons of mass destruction capabilities, connections to terrorists, or both in speeches that were not analyzed in the majority report:

- I have come to the inescapable conclusion that the threat posed to America by Saddam's weapons of mass destruction is so serious that despite the risks and we should not minimize the risks we must authorize the President to take the necessary steps to deal with that threat. There has been some debate over how "imminent" a threat Iraq poses. I do believe Iraq poses an imminent threat. I also believe after September 11, that question is increasingly outdated. It is in the nature of these weapons that he has and the way they are targeted against civilian populations, that documented capability and demonstrated intent may be the only warning we get. To insist on further evidence could put some of our fellow Americans at risk. Can we afford to take that chance? I do not think we can. **Senator John D. Rockefeller IV**, Congressional Record, October 10, 2002.
- Is [Saddam Hussein] a greater threat than he was in 1991? He surely is. There's different ways of launching scuds and all kinds that go faster, farther. There is no question on that... And if [our allies] are not there for us, does that mean in this debate, precedent-based, historically-based, that we sort of sit and take it, or are we going to end up basically being unilateral anyway because we cannot have our children smallpoxed. **Senator John D. Rockefeller IV**, Congressional Record, September 25, 2002.
- When I vote to give the President of the United States the authority to use force, if necessary, to disarm Saddam Hussein because I believe that a deadly arsenal of weapons of mass destruction in his hands is a threat, and a grave threat to our security and that of our allies in the Persian Gulf region. **Senator John Kerry**, Congressional Record, October 9, 2002.
- I believe that Saddam Hussein's Iraqi regime represents a clear threat to the United States, to our allies, to our interests around the world, and to the values of freedom and democracy we hold dear....Thousands of terrorist operatives around the world would pay anything to get their hands on Saddam's arsenal, and there is every possibility that he could turn his weapons over to these terrorists...we can hardly ignore the terrorist threat, and the serious danger that Saddam would allow his arsenal to be used in aid of terror. **Senator John Edwards**, Congressional Record, September 12, 2002.

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- When I consider that Hussein could either use or give to terrorists weapons of mass destruction biological, chemical or nuclear and that he might just be mad enough to do it I find, after careful research, the answer to my question: we cannot afford to leave him alone over the next 5 or even 3 years. **Senator Charles Schumer**, Congressional Record, October 10, 2002
 - If you allow someone like Saddam Hussein to get nuclear weapons, ballistic missiles, chemical weapons, biological weapons, how many people is he going to kill with such weapons? He's already demonstrated a willingness to use the weapons. He poison-gassed his own people. He used poison gas and other weapons of mass destruction against his neighbors. This man has no compunction about killing lots and lots of people. So this is a way to save lives and to save the stability and peace of a region of the world that is important to the peace and security of the entire world. **Vice President Al Gore**, Address to the Nation, December 16, 1998.
 - Our strategic objective is to contain Saddam Hussein and curtail his ability to produce the most deadly weapons known to mankind-weapons that he has unleashed with chilling alacrity against his own people. Left unchecked, Saddam Hussein would in short order be in a position to threaten and blackmail our regional allies, our troops, and, indeed, our nation. **Senator Joe Biden**, Congressional Record, February 12, 1998.
 - Saddam Hussein, with one nuclear weapon, would be far more dangerous than the Soviet Union with 20,000. The difference is, they would not use [their weapons]. They were not suicidal. He would. **Senator Carl Levin**, Congressional Record, October 9, 1998
 - With the peace of the region and, and in fact, much of the world at risk, we cannot allow Iraq to continue its maneuvers designed to protect such a dangerous buildup of biological, chemical and nuclear weapons. **Senator John D. Rockefeller IV**, Congressional Record, December 16, 1998.
 - It is not possible to overstate the ominous implications for the Middle East if Saddam were to develop and successfully militarize and deploy potent biological weapons. We can all imagine the consequences. Extremely small quantities of several known biological weapons have the capability to exterminate the entire population of cities the size of Tel Aviv or Jerusalem. These could be delivered by ballistic missile, but they also could be delivered by much more pedestrian means; aerosol applicators on commercial trucks easily could suffice. If Saddam were to develop and then deploy usable atomic weapons, the same holds true. **Senator John Kerry**, Congressional Record, November 9, 1997

This is only a sampling of the approximately 100 statements submitted by Republican Members of this Committee for review and which we repeatedly requested be included in the

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report as agreed previously by the Committee Members. This request was ignored by the majority during two iterations of comments on the report drafts and a motion to include such statements, offered by the Vice-Chairman at the Committee's business meeting, was denied a hearing by the Chairman.

Cherry-Picking Intelligence

We have several concerns about the intelligence information the majority chose to include, and chose to ignore, in its report.

First, the majority chose to include only "finished disseminated intelligence" for comparison with policymakers' statements. This is not only a departure from the Committee's agreed upon terms of reference, it is unfair to policymakers whom we know had access to far more than just published intelligence assessments.

For example, in preparation for Secretary Powell's statement before the UN on February 5, 2003, the CIA provided an intelligence report called a TD (telegraphic dissemination) for use in the speech. In spite of the fact that the CIA informed the Committee about this in early 2004 and that the information was included in the Committee's first Iraq report published nearly four years ago, the majority refused to include, or even consider, the TD in its majority report. Instead the majority report included an intelligence assessment published *after* the Secretary's speech and noted the existence of "operational intelligence traffic." Any intelligence officer who has been on the job more than a week knows that a TD is an intelligence report, not "operational traffic." Moreover, after refusing our request to include the TD, incorrectly arguing that it was "operational," the majority drafters included several actual operational cables of their choosing in another section of the report. Worse, these were operational cables which the Committee knows were not finished intelligence reports for policymakers and were not given to any administration officials; yet the much more widely disseminated TD, specifically provided to Secretary Powell for use in his speech, was not included in the majority report.

Even worse, excluded from sections of the report which specifically analyze the President's statements, is the President's Summary of the NIE, a summary document prepared for and presented to the President. This is most disturbing since in two important cases—regarding reconstitution of Iraq's nuclear program and Iraq's intent to use its small UAVs for biological weapons delivery—the judgments and dissents were presented differently than in the NIE's key judgments and main text. In fact, in the case of Iraq's UAVs, the dissent was not included in the President's summary at all.

Second, the report excludes other information relevant to any fair inquiry of whether policymakers' statements were substantiated by intelligence. For example, the Committee obtained information related to the coordination, declassification, and fact-checking of the President's Cincinnati speech with the CIA, relevant portions of which we requested be included in the report. Specifically, a handwritten note by a CIA officer at the bottom of one of the drafts to then-DCI Tenet said that the CIA terrorism analyst had "read all the terrorism paragraphs and said it was all okay" (emphasis original.) We believed it was only fair to let the public know that the CIA checked the President's speech and said that all of the terrorism paragraphs were

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determined by CIA analysts to be “all okay.” Apparently the majority did not think this was something the public needed to know since they denied our request to include it and did not allow a vote on the amendment offered to fix this shortcoming. Why do the Democrats want to hide the fact that the CIA cleared the President’s speech?

As another example, the majority report analyzes Secretary Powell’s UN speech, but does not explain that this speech was not only checked and rechecked by the intelligence community to ensure that the speech was well supported by the available intelligence, but also that the first draft of the speech was actually written by the CIA. Notably, the report fails to mention this. In some cases the majority report actually claims that Secretary Powell’s statements in this speech were not substantiated by intelligence, even though the intelligence was in the original draft written by the CIA. We are at a loss to explain how the majority can believe that a speech drafted by the CIA and then checked and rechecked by the intelligence community to ensure that it was strongly supported by the available intelligence could in any way be characterized as unsubstantiated by intelligence at that time.

Third, in several cases, the report compares policymaker statements to intelligence published after, sometimes months after, the statements were made. This just does not make sense. For example, Amendment 97 addresses a conclusion which says the “President’s suggestion that the Iraqi government was considering using UAVs to attack the United States was substantiated by intelligence judgments available at the time, but these judgments were revised a few months later, in January 2003.” Whether the NIE judgments were reviewed after the President’s speech is irrelevant to whether the statement was substantiated at the time it was made. Furthermore, we note that this conclusion also distorts the President’s words because he did not say that Iraq was considering using UAVs to target the United States. Rather, he said: “we are concerned that Iraq was exploring ways of using these UAVs for missions targeting the United States,” a comment that was fully consistent with the January 2003 NIE, *Nontraditional Threats to the U.S. Homeland Through 2007*. Obviously the intelligence community had to be concerned that Iraq could use these UAVs to target the homeland or they would not have been included in an NIE about threats to the Homeland at all.

We find the refusal to include all relevant intelligence and the inclusion of information published after the delivery of statements to be particularly ironic since in a letter on November 14, 2005, then-Vice Chairman Rockefeller, along with Senators Levin and Feinstein, wrote to the Majority and Minority Leaders explaining that they had “insisted that the Committee compare statements of government officials against all intelligence information prepared for circulation and relevant to the subject matter at issue, provided it was it was available at the time the statement was made.”

This appeared to be considered a worthwhile task when the burden of collecting all of the available intelligence from the end of the Gulf War through the start of Operation Iraqi Freedom fell to Republican Members and their staff, but when the Democrats took charge, including only some of the intelligence was deemed acceptable. Perhaps forcing the Republican staff to review over 40,000 documents was just a request intended to delay further publication of the Phase II effort and allow the continuation of charges of “obstruction.”

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The idea of limiting the intelligence to that which was “available at the time the statement was made” must have seemed like a better idea when the Democrats thought policymakers would not be able to use information published even days after their statements to defend themselves. When it turned out that this could be used to the majority’s own advantage, however, information that was actually available to policymakers apparently became less important. Maybe the majority believes those reading the report will not bother to check the dates.

On behalf of the minority, the Vice-Chairman filed 26 amendments in the category of “cherry picking or excluding relevant information from the report.” The Chairman refused to allow consideration of any of these amendments at the Committee’s business meeting. (See Appendix A, amendments 13, 18, 20, 22, 26, 28, 29, 32, 38, 39, 54, 71(a), 81, 82, 97, 106, 108, 130, 132, and 133.

Unsubstantiated Claims/Distorting Intelligence

One of the most hypocritical aspects of the Majority report is that while it purports to cast judgment on how well policymakers characterized intelligence analysis in their public statements, the report itself distorts many policymakers’ statements and the intelligence analysis. This has the unfortunate consequence of undermining the Committee’s credibility in exercising oversight.

Several of the minority’s amendments focused on the issue of mischaracterizing policymakers’ statements. One example is Amendment 7 which addresses a portion of the majority report which says that the President, Vice President, and the Secretary of State “stated that the Iraq government had an active nuclear weapons program.” However, even a cursory examination of the statements included for review in the report shows that none of the named individuals “stated” that Iraq had an “active nuclear weapons program,” not one. Another amendment, Number 136, addresses a conclusion that claims the President and Vice President made statements that “Saddam Hussein was prepared to give weapons of mass destruction to terrorist groups for attacks against the United States.” Yet, neither the President nor the Vice President said this.

The report also distorts the intelligence analysis to help bolster its case against policymakers. For example, Amendment 129 addresses a portion of the report which claims that the October 2002 NIE judged that “Saddam was unwilling to conduct terrorist attacks targeting the United States at that time.” The NIE never said this. In fact, this NIE judged that Iraq was investigating mapping software for its UAVs, useless outside the United States. The NIE said this “suggests that Iraq is investigating the use of these UAVs for missions targeting the United States.” In addition, Amendments 81-82 address a portion of the report which says that the “intelligence community was not aware of any large, deeply-buried facilities” in Iraq. This makes it sound as though the intelligence community did not assess that Iraq had deeply-buried facilities. In reality, the intelligence community had long assessed that Iraq had deeply-buried facilities in Iraq; they noted only that they were unable to specifically identify them, something hardly uncommon in intelligence.

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A final example, Amendment 58 addresses a conclusion about Iraq's biological weapons capabilities which states that policymakers' statements were substantiated by intelligence information, but concludes that they "did not discuss gaps in Iraq's biological weapons programs, which were explicit in the NIE." The NIE's assessment of Iraq's biological weapons program was that "all key aspects—R&D, production, and weaponization—of Iraq's offensive BW program are active and that most elements are larger and more advanced than they were before the Gulf war." This judgment and the NIE judgment that Iraq had biological weapons were "high confidence" judgments. In a ten-page discussion of Iraq's biological warfare capabilities only one sentence noted any gaps in knowledge of Iraq's BW program and this was only regarding "specific information on the types of weapons, agent, or stockpiles Baghdad has at its disposal." In other words, there were no gaps noted regarding the judgments that Iraq had an offensive biological weapons program or stocks, only uncertainty as to what kinds of agents were in those stocks—hardly a gap.

On behalf of the minority, the Vice-Chairman filed 31 amendments in this category—unsubstantiated claims or distorting information. The Chairman refused to allow consideration of any of these amendments at the Committee's business meeting. (See Appendix A, amendments 7, 11, 16, 17, 17(a), 19, 21, 22(a), 23, 30, 31, 33, 34, 41, 41(a), 58, 68, 70, 71, 83, 85, 86, 90, 96, 99, 119, 120, 121, 125, 126, 127, 128, 129, 131, 135, 135, 136, 137, and 140.

Refusal to Offer Policymakers the Opportunity to Be Heard

We also disagree with the majority's decision not to request interviews with policymakers whom the report alleges made unsubstantiated statements. These individuals deserve the opportunity to respond to the majority's allegations and be afforded the opportunity to inform the majority of intelligence information that may be lacking from the report that had been used in the preparation of their statements.

We note that in the last Congress the Democrats argued that policymakers needed to be brought before the Committee to be interviewed about their statements *even before* the Committee had made a determination about whether their statements were substantiated. Then-Vice Chairman Rockefeller even wrote to the Chairman with a list of people to be interviewed which included Secretary of State Colin Powell, Deputy Secretary of State Richard Armitage, then-National Security Advisor Condoleezza Rice, and then-Deputy National Security Advisor Stephen Hadley, among others.

In addition, Senators Rockefeller, Levin, and Feinstein wrote to the Senate leadership in November 2005 saying that a task force of Committee Members discussed the importance of interviewing current and former officials within the Departments of State and Defense and the Office of the Vice President, among others. While the letter was, in fact, not an accurate portrayal of the discussions at that meeting (the transcript of the meeting shows that the only individual the task force actually discussed interviewing was Secretary Powell), it nonetheless shows that these Members wanted to conduct such interviews.

We agreed that it was important to interview many of these individuals, and others, if the Committee Members found that any of their statements were not substantiated by the intelligence

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or if they were in another way relevant to the Committee's inquiry. At the time the Committee voted on the Phase II terms of reference in February 2004, Senator Levin agreed with us, noting "but you've got to ask policymakers who made statements relative to weapons of mass destruction what was the basis in intelligence for their statements, if we believe that their statements, reports, or testimony went beyond the intelligence that they were given." Despite this and despite Chairman Rockefeller's own letter requesting these interviews, when we requested that the interviews be conducted so that policymakers could respond to the drafted conclusions that alleged unsubstantiated statements, the request was ignored, and a motion to conduct these interviews offered at the Committee's business meeting was denied a hearing by the Chairman.

Interestingly, in the additional views attached to a Committee report on "*The Use by the Intelligence Community of Information Provided by the Iraqi National Congress*," Chairman Rockefeller and Senators Levin, Feinstein, Wyden, Bayh, Mikulski, and Feingold wrote that the Committee Chairman had declined a request of the Vice Chairman for the Committee to interview White House officials, including speech writers, to fully understand how and why the intelligence assessments were included in major prewar speeches, such as the President's State of the Union Address and Secretary Powell's speech to the UN Security Council. Yet, none of these Members wanted to pursue these interviews once they were in charge of the review.

The only reason we can imagine why the Democrats would not undertake interviews that they had repeatedly requested in the last Congress, is that the interviews were another tactic at delaying the report and allowing more false charges of "obstruction."

Conclusion

Although we are troubled by all of the issues we have outlined thus far—that the report released today was a waste of Committee time and resources that should have been spent overseeing the intelligence community, that the report is part of a partisan agenda, that the report cherry picked information and distorted policymakers' statements and intelligence, and that the majority refused to offer those it is accusing the opportunity to be heard—we are most concerned about the damage that this report will do, and that the whole Phase II effort has done for the past several years, in creating the impression that policymakers should be bound to make policy based on only that which is published in intelligence assessments. This is not only wrong, it is dangerous and it is contrary to everything else this Committee has done since it published its first report on the Iraq intelligence failure. It has the effect of encouraging intelligence community analysts to become policymakers, and encouraging policymakers to adhere strictly to whatever analysts write, when we know that intelligence analysis can be dangerously inaccurate. Have we forgotten how wrong the intelligence judgments were in the October 2002 Iraq WMD NIE and how many other intelligence failures we had before that one? Intelligence is not incontestable truth and it is only one factor out of many that a policymaker must consider before making a policy decision.

This fallacy has also unnecessarily increased demands on the intelligence community. Requesting NIEs with unclassified key judgments has become sport in Washington as each side hopes the NIE will support its position. Cries of "politicization" usually follow from whichever

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side is unhappy with the results. This is not only unfair to the intelligence community, it is dangerous in that analysts will attempt to please all sides and their muddled judgments will help no one.

We expect intelligence analysts to follow tried and true marching orders for intelligence: tell me what you know, tell me what you don't know, tell me what you think, and make sure the policymaker understands the difference. Analysts cannot do this if they are constantly wondering if their assessments will be used for politics.

The Democratic majority, in the partisan way it attempted to suppress intelligence information and skew the historical record, is betting that the public and the media will not take the time to read these and other minority views that expose its hypocrisy. We have written these views to shine a light on it, for if there is any oversight value left in this fruitless endeavor that has consumed so much of the resources of this Committee over a four year period, it would be to expose the true intent of this supposed "oversight."

We regret the damaging effect the majority's report has on this Committee's credibility to oversee our intelligence community and we urge our colleagues to return to the non-partisan underpinnings that the Senate Intelligence Committee was founded upon.

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Appendix A

Filed Amendments on Phase II Report:

Whether Public Statements Regarding Iraq by U.S. Government Officials Were Substantiated by
Intelligence

("Statements")

Amendment 6

Page 3, last paragraph – *Overlaying this issue of the selective use of intelligence is the more fundamental issue of the selective declassification of intelligence. Intelligence information contained in many of the speeches analyzed in this report had to be declassified before being released publicly. The Executive Branch has the prerogative to classify information to protect national security, and unlike Congress the Executive Branch can declassify information relatively easily. Until the Congress sought and obtained the release of an unclassified version of the key judgments of the October 2002 National Intelligence Estimate on Iraq's presumed weapons of mass destruction programs, the analytical judgments of the Intelligence Community on these matters were classified. The collected intelligence underlying these judgments remained classified until after the invasion of Iraq. Few, if any, of the Intelligence Community's assessments on Iraq's links to terrorism, the intent of the Iraqi regime, projected post-war conditions, or other relevant matters contained in the statements of senior officials were publicly released before the war. This ability of the Executive Branch to unilaterally declassify and divulge intelligence information at a time, place, and in a manner of its choosing must also be taken into account when evaluating policymakers' use of intelligence information.*

Amendment 6 – **Strike** the above paragraph.

Comment – It is misleading to simply say that the Executive branch makes “unilateral” decisions about what to declassify. Congress can also request declassification and usually gets what it wants unless the Executive branch can establish a sources-and-methods reason not to disclose it. In addition, Section 8 of S. Res. 400 offers a mechanism for the Senate to disclose classified information. The fact that the Senate chose not to do this does not mean that it did not have the opportunity.

Amendment 7

Page 6, first full non-bullet paragraph – *In major policy speeches the President, the Vice President and the Secretary of State indicated that the Iraqi government had an active nuclear weapons program.*

Amendment 7– **Strike** the above sentence.

Comment – None of the statements listed in the report shows that the President, Vice President, or Secretary of State indicated that the Iraqi government had an active nuclear weapons program. We believe that if this Committee is going to scrutinize each and every word these policymakers uttered, we should clearly state what they said, not re-interpret what they said.

Amendment 11

Page 7, first paragraph – *They agreed that if Iraq decided to restart a nuclear weapons program, with proper foreign assistance it could produce enough fissile material for a nuclear weapon within five to seven years, and that if Iraq in some way acquired adequate fissile material from a foreign source, it could produce a nuclear weapon within one year.*

Amendment 11 – **Strike proper, in some way, and adequate.**

Comment – The coordinated assessments did not use the terms “proper,” “in some way” and “adequate.” The Committee should be accurate in describing the assessments; they should be deleted from the report.

Amendment 13

Page 7, second paragraph – *In April 2001, the CIA noted that Iraq’s attempts to purchase high-strength aluminum tubes and other dual-use equipment suggested that a reconstitution effort might be underway. This judgment was included in several other CIA assessments. In August 2002 the CIA published a paper on Iraqi WMD capabilities (Iraq: Expanding WMD Capabilities Pose Growing Threat), which concluded that these procurement activities indicated that the Iraqi government had restarted its nuclear weapons program.*

Amendment 13 – **Insert after the above sentence A December 2001 CIA Senior Executive Memorandum said that procurement activities “show Iraq is trying to jump-start a clandestine uranium enrichment program to produce the fissile material for a weapon, potentially by late this decade, assuming it produces the necessary components indigenously.” In January 2002, the CIA published an assessment which said, “Procurement activities detected in the past year are consistent with Iraq attempting to jump-start a clandestine uranium enrichment program to produce the fissile material needed to make a nuclear weapon, potentially by late this decade. Iraq retains a significant number of nuclear program scientists, program documentation, and probably the manufacturing infrastructure to support a nuclear weapons program.”**

Comment – We requested that several relevant reports below be added to this section, but they were added only to the footnote. We would at least like the December 2001 report, which seems to be the most important and relevant to policymaker’s statements in questions, added to the text.

- A July 2001 CIA assessment, Iraq: New Effort to Get Centrifuge-Related Tubes, had the same assessment as the April 2001 paper already cited.
- An October 2001 Senior Executive Intelligence Brief (SEIB) discussed Iraq’s “nuclear-related procurement efforts,” including the aluminum tubes and uranium from Niger.
- In a November 2001 Senior Executive Memorandum (SEM) the CIA wrote that “[redacted] reporting indicate Baghdad still has a vast procurement network to seek materials and equipment that can be used in a centrifuge program, including the recent effort to get aluminum tubes for a Zippe-type centrifuge, but it is unclear if Iraq has embarked on an extensive nuclear weapons effort.”

- Also in November 2001 a CIA SEIB titled “Iraq: Seeking to Rebuild Enrichment Capability” discussed Iraq’s procurement of aluminum tubes.
- A December 2001 SEM said “Procurement activities detected within the past year show Iraq is trying to jump-start a clandestine uranium enrichment program to produce the fissile material for a weapon, potentially by late this decade, assuming it produces the necessary components indigenously.”
- In January 2002 the CIA wrote in a Senior Publish When Ready (SPWR) that “Procurement activities detected in the past year are consistent with Iraq attempting to jump-start a clandestine uranium enrichment program to produce the fissile material needed to make a nuclear weapon, potentially by late this decade. Iraq retains a significant number of nuclear program scientists, program documentation, and probably the manufacturing infrastructure to support a nuclear weapons program.”
- In March 2002 a CIA SPWR said “We assess that Iraq currently may be trying to reconstitute its gas centrifuge program. Since intrusive inspections ended in 1998, Iraq has increased efforts to buy critical dual-use items that could support a gas centrifuge program, including aluminum tubes suitable for rotors, magnets, machine tools, essential chemicals and centrifuge cascade related equipment.”

Amendment 16

Page 7, last partial paragraph – *The Department of Energy (DOE) disagreed with the CIA’s conclusions regarding the aluminum tubes, and assessed that it was more likely that the tubes were intended for a different use, such as a conventional rocket program. Based on other evidence, including Saddam’s meetings with Iraqi nuclear scientists, and possible attempts to procure uranium from Niger, the DOE assessed in July 2002 that Iraq might be attempting to reconstitute a nuclear weapons program, but suggested that the evidence was not conclusive.*

Amendment 16 – Strike the above paragraph and insert In a July 2002 paper the Department of Energy (DOE) said “Multiple-source reporting suggests that Saddam Hussein is seeking to reconstitute Iraq’s nuclear weapons program. Although the reporting produces no “smoking gun,” continued vigilance is required regarding Iraq’s attempts to rejuvenate its nuclear weapons program.”

Comment – We do not believe that an assessment which solely discusses DOE’s judgment about the end-use for the aluminum tubes is relevant in this section because the assessment did not discuss nuclear reconstitution at all. The statements under review from the Vice President make no mention of aluminum tubes. The report should say what DOE’s assessment was of reconstitution, which was: “Multiple-source reporting suggests that Saddam Hussein is seeking to reconstitute Iraq’s nuclear weapons program. Although the reporting produces no “smoking gun,” continued vigilance is required regarding Iraq’s attempts to rejuvenate its nuclear weapons program.”

[REDACTED]

Amendment 17

Page 8, first full paragraph – *The Department of State's Bureau of Intelligence and Research (State/INR) disagreed with the CIA that Iraq had restarted a nuclear weapons program, and concurred with the DOE that the aluminum tubes were probably intended for other purposes. This view was included in congressional testimony in September 2002, but State/INR did not publish any reports on the aluminum tubes outside the State Department until after publication of the October 2002 NIE.*

Amendment 17 – **strike** the above paragraph and **insert** INR did not publish any assessments outlining their views on reconstitution of Iraq's nuclear program prior to the Vice President's statement.

Comment – The comment that INR “disagreed with the CIA that Iraq had restarted a nuclear weapons program, and concurred with the DOE that the aluminum tubes were probably intended for other purposes” has no citation. If the intent is to cite this to the Committee's first report, the attribution is mischaracterizing the comments in that report. The Committee's report was describing what INR analysts told the staff after the fact about their views at the time, which should not be construed to mean those views were articulated to policymakers. The report should cite a document or report in which INR “disagreed,” otherwise this discussion should be deleted. In addition, if testimony to Congress is going to be offered in lieu of an assessment from INR, the report should include comments attributed to the National Ground Intelligence Center (NGIC) at the same hearing. Testimony at the September 17, 2002 hearing was that “State/INR and DOE are still examining the latest specifications but currently believe that the tubes more likely are intended for alternative conventional weapons uses, such as the multiple rocket launcher program. The NGIC – the U.S. experts on foreign ground force weapons systems – notes, however, that Iraq's dimensional requirements for the tubes are far stricter than necessary for rocket casings.” Finally, we do not understand why testimony given in mid-September is being used in a section which analyzes the Vice President's speech from August. This report is supposed to determine whether policymakers' statements were substantiated by intelligence. How can we expect policymakers to be aware of a view that wasn't published or briefed to them until after they made their statement?


[REDACTED]

Amendment 17(a)

[REDACTED] Page 8, second full paragraph – *Several of these intelligence agencies also made reference to assessments by the National Ground Intelligence Center (NGIC) regarding the aluminum tubes. Testimony by the Director of Central Intelligence to Congress stated that NGIC judged that “Iraq’s dimensional requirements for the tubes are far stricter than necessary for rocket casings.” A later memo from State/INR said that “the IAEA and the [REDACTED] pertinent nuclear-technical experts have concluded independently that the aluminum tubes are not intended for Iraq’s nuclear program and are consistent with rocket casings...DOE and DoD’s National Ground Intelligence Center (NGIC) concur on this assessment, though NGIC does not share most of the other DOE views on tactical rockets.”*

[REDACTED] Amendment 17(a) – ~~strike~~ *A later memo from State/INR said that “the IAEA and the [REDACTED] pertinent nuclear-technical experts have concluded independently that the aluminum tubes are not intended for Iraq’s nuclear program and are consistent with rocket casings...DOE and DoD’s National Ground Intelligence Center (NGIC) concur on this assessment, though NGIC does not share most of the other DOE views on tactical rockets.”*

Comment – We see that the Majority added this information to the report after the amendment filing deadline. We asked that the National Ground Intelligence Center (NGIC) information be included, but we did not request and did not consent to including the State/INR paper for two reasons: first, because it was published more than two months after the Vice President’s speech; and second, because the report misquotes the INR document. The INR report did not say that DoD’s NGIC concurred with the assessment that the aluminum tubes were consistent with rocket casings. This is a gross distortion of the INR assessments and the position of NGIC. If this text is included, it will make the Committee look foolish since our own 2004 report explained that NGIC was one of the main proponents of the argument that the tubes were inconsistent with rocket casings. The INR report said that that NGIC agreed only with the assessment that high strength is used for tactical rockets by a number of countries; although NGIC said in the NIE that because of the unsuitability of the wall thickness and weight of the Iraqi aluminum tubes that they were “unlikely to be intended for rocket motor cases. The report, as drafted, clearly misquotes the INR paper. This should be deleted.



Amendment 18

Page 8, third full paragraph – *According to a DIA report, the intelligence community continued to assess that it would take five to seven years from the commencement of a revived nuclear program for the Iraqi government to indigenously produce enough fissile material for a nuclear weapon. This same report repeated the assessment that a nuclear weapon could be constructed much faster if adequate fissile material was acquired from a foreign source, though an earlier CIA assessment noted that “we have not detected a dedicated Iraqi effort to obtain fissile material abroad.”*

Amendment 18 – **Strike** the above paragraph.

Comment/Suggestion – This is a May 2002 DIA report referring to an intelligence community judgment which had not been updated since 2000. At the time of the Vice President’s speech, DIA assessed that Iraq could have a weapon as soon as 2006, and INR had no judgment on this since the 2000 ICA. This sentence should be changed to accurately reflect the judgments of each agency.

Amendment 19

Page 8, last paragraph – *In the President’s address to the United Nations General Assembly, he stated that Iraq continued to develop weapons of mass destruction, and indicated that Iraq had an ongoing nuclear weapons program.*

Amendment 19 – **Strike** the paragraph above.

Comment – None of the statements in the report taken from the President’s speech suggest that Iraq had an ongoing nuclear weapons program. The President commented that Iraq employed capable nuclear scientists, retained physical infrastructure needed to build a weapon, and made attempts to buy aluminum tubes. As noted in the report, several intelligence community assessments mentioned these things without concluding that Iraq had an ongoing nuclear weapons program.

Amendment 20

Page 9, first full paragraph - *Though the intelligence community as a whole had not yet concluded that a nuclear weapons program was underway, some (though not all) intelligence agencies believed that Iraq's attempts to acquire high-strength aluminum tubes, along with supporting evidence such as Saddam's meetings with Iraqi nuclear science personnel, indicated that the nuclear program was in fact being reconstituted.*

Amendment 20 – **strike** *(though not all)* and **insert** and the end of the paragraph All intelligence agencies assessed that the aluminum tubes could be used to enrich uranium for nuclear weapons, but DOE and State INR assessed that the tubes were more likely intended for a conventional weapons program.

Comment – Again, the President did not say that Iraq had reconstituted its nuclear program or had an ongoing nuclear program in this speech. He mentioned the acquisition of aluminum tubes “used to enrich uranium for a nuclear weapon.” All agencies, including DOE and State/INR assessed that these tubes *could* be used for this purpose and Saddam’s meeting with nuclear science personnel were discussed in numerous intelligence community papers from CIA, DIA, and DOE. A discussion of whether or not agencies judged that these efforts were part of a reconstituted nuclear program is irrelevant here because the President did not say they were part of a reconstituted nuclear program. Also, “some” always means “not all.” This is redundant.

Amendment 21

Page 9, second paragraph – *Intelligence community analysts generally believed that the Iraqi government's failure to provide certain evidence and documents regarding its pre-1991 nuclear program indicated that the Iraqi government was attempting to conceal this information. However, this conclusion was not cited by the intelligence community as compelling evidence for a reconstituted, post-Gulf War nuclear weapons program.*

Amendment 21– **strike** *However, this conclusion was not cited by the intelligence community as compelling evidence for a reconstituted, post-Gulf War nuclear weapons program.*

Comment – Again, the last sentence is irrelevant because the President did not cite Iraq’s concealment of documents as evidence of a reconstituted, post-Gulf War nuclear weapons program. His comments about withholding information refer to the pre-Gulf War program.

[REDACTED]

Amendment 22

Page 9, third full paragraph – *Numerous intelligence assessments made reference to open source information showing that Saddam met with personnel from the Iraqi Atomic Energy Commission (IAEC).*

Amendment 22 – **Strike** *made reference to open source information showing* and **insert** showed

Comment – The majority report changed this sentence from saying “intelligence reporting” to “open source information.” The report should still say “intelligence” because numerous intelligence assessments cited the meetings between Saddam and the IAEC personnel and much of the information was from intelligence reporting vice open source reporting. This information was provided to the Majority as requested and still it was not included in the report.

- In January 2002, a DIA Executive Highlight (EH) said “... the increased frequency of operations at former and suspect nuclear facilities is highly suspect. In a possibly related incident, Saddam Husayn met with the Iraqi Atomic Energy Commission on 10 January and praised its efforts. Baghdad probably will continue trying to reconstitute its nuclear weapons program. Although no firm evidence exists that reconstitution has begun, Iraq had continued to obtain dual-use equipment and to maintain its scientific cadre.”
- In January 2002, another DIA assessment said, “Persistent procurement efforts to acquire approximately 60,000 aluminum alloy tubes, coupled with recent statements by Saddam to the Iraqi Atomic Energy Commission, suggest an intent to reconstitute the nuclear program.”
- In September 2002, a DIA Key WMD Operational Support study on Iraq said “Iraq likely revitalized its nuclear weapons program shortly after the end of UNSCOM inspections ended in December 1998. There is no firm evidence of a current nuclear weapon design effort, but we judge that continued procurement of dual-use nuclear-related items, the assignment of key personnel to nuclear weapon-capable sites, construction at nuclear facilities, and Saddam’s interactions with the Iraqi Atomic Energy Commission all indicate that Iraq revitalized its nuclear weapon program after 1998.”
- CIA SPWR 9/11/2002 – “Saddam’s exhortations to his nuclear Mujahidin, periodically reported in the Iraqi press since 1998, are the most compelling indicator that his nuclear weapons work resumed in 1998, when inspectors were ordered out of Iraq.”
- DIA assessment September 2002, “The renewed regular contact between Saddam and the IAEC, as well as the enhanced security, suggests the IAEC is again the focal point of Saddam’s nuclear program.”
- July 22, 2002, DOE assessment “Nuclear Reconstitution Efforts Underway?” said, “According to Iraqi press reports, Saddam recently met with personnel from the IAEC. He reportedly commended the staff for their efforts ‘to make science serve the programs of comprehensive development, which are under way in Iraq despite the circumstances of the wicked embargo.’ The staff was referred to in the press report as mujahidin . . . These meetings indicate that Saddam continues to place a high priority on a potential nuclear option for his strategic goals.”

[REDACTED]

Amendment 22(a)

Page 9, fourth full paragraph – *At the time of the President's address to the General Assembly, the intelligence community had not changed its judgment that it would take Iraq at least several years to produce enough fissile material for a nuclear weapon ('five to seven years' was the commonly cited timeframe, though a September 2002 DIA report judged that it could be done in four), and that Iraq could build a nuclear weapon within one year if it in some way acquired an adequate amount of fissile material from a foreign source.*

Amendment 22(a) – **strike** *it would take Iraq at least several years to produce enough fissile material for a nuclear weapon ('five to seven years' was the commonly cited timeframe, though a September 2002 DIA report judged that it could be done in four), and that*

Comment – The beginning of this sentence is not related to the President's comments. He said what Iraq could do should it "acquire" fissile material. How long it would take Iraq to indigenously produce fissile material is irrelevant. In addition, since the 2000 ICA did not say "in some way" it should be deleted.

Amendment 23

Page 10, first paragraph – *Additionally, he said that there was clear evidence that Iraq was developing a nuclear weapon, declaring that "facing clear evidence of peril we cannot wait for the final proof – the smoking gun – that could come in the form of a mushroom cloud.*

Amendment 23 – **Strike** *there was clear evidence that Iraq was developing a nuclear weapon, declaring that*

Comment – None of the statements cited in the report from the Cincinnati speech quote the President saying that "there was clear evidence that Iraq was developing a nuclear weapon." The report should simply say what the President said.

Amendment 26

Page 10, third paragraph – *State/INR dissented from the majority view, and stated in the NIE that the available evidence did “not add up to a compelling case for reconstitution” of an Iraqi nuclear weapons program.*

Amendment 26 – **strike** *State/INR dissented from the majority view, and stated in the NIE that the available evidence did “not add up to a compelling case for reconstitution” of an Iraqi nuclear weapons program.* and **insert** State/INR dissented from the majority view, and stated in the NIE key judgments that “the activities we have detected do not, however, add up to a compelling case that Iraq is currently pursuing what INR would consider to be an integrated and comprehensive approach to acquire nuclear weapons.” In the main text of the NIE, INR assessed that the available evidence did “not add up to a compelling case for reconstitution” of an Iraqi nuclear weapons program. In the President’s summary of the NIE, INR offered another version of its judgment, stating that “INR judges that the evidence indicates, at most, a limited Iraqi nuclear reconstitution effort.”

Comment - Because this section of the report is being used to consider whether the President’s statements were substantiated by intelligence, we believe it is appropriate to include the President’s summary of the NIE, a document specifically prepared for and briefed to the President. The President’s summary of the NIE said, “Most agencies judge that Iraq is reconstituting a nuclear weapons program. INR judges that the evidence indicates, at most, a limited Iraqi nuclear reconstitution effort.” In addition, the key judgments of the NIE said, “The activities we have detected do not, however, add up to a compelling case that Iraq is currently pursuing what INR would consider to be an integrated and comprehensive approach to acquire nuclear weapons.” All of these are slightly different and should be included to show what was available to the President.

Amendment 28

Page 10, fourth paragraph – *Construction at sites known to have been part of Iraq’s pre-Gulf War nuclear weapons program was mentioned in earlier assessments (though not specifically in the NIE).*

Amendment 28 – **strike** *(though not specifically in the NIE).* and **insert** including in the NIE.

Comment – The comment in the report is incorrect. Construction activity at Tuwaitha, a facility associated with Iraq’s pre Gulf war nuclear program was discussed in the 2002 NIE on page 24. This should be noted in the report.

[REDACTED]

Amendment 29

Page 10, last paragraph – *State/INR's alternative views, which were incorporated in the NIE, said that State/INR accepted "the view of technical experts at the Department of Energy" who concluded that the aluminum tubes were "poorly suited" for a nuclear weapons program. The alternative views also cast doubt on the judgment that other dual-use procurement efforts were related to a nuclear program, and went on to say that "the information we have on Iraqi nuclear personnel does not appear consistent with a coherent effort to reconstitute a nuclear weapons program.*

Amendment 29 – At the end of the paragraph insert In the President's summary of the NIE, INR said it judges that the evidence indicates, at most, a limited Iraqi nuclear reconstitution effort."

Comment – Again, we believe that if the Committee is going to compare intelligence to statements made by the President, it should include the President's summary of the NIE.

Amendment 30

Page 11, first paragraph - *The majority view of the NIE assessed that Iraq would be able to produce a nuclear weapon in five to seven years, and posited a "much less likely scenario" in which production time could be shortened to three to five years. The majority view also assessed that if Iraq acquired fissile material from an outside source that production time could be "within several months to a year", but noted that Iraq did not appear to have a "systematic effort to acquire foreign fissile materials from Russia [or] other sources." State/INR said that it could not predict when Iraq might acquire a nuclear weapon, since it lacked persuasive evidence of a reconstituted nuclear program.*

Amendment 30 – ~~strike~~ *The majority view of the NIE assessed that Iraq would be able to produce a nuclear weapon in five to seven years, and posited a "much less likely scenario" in which production time could be shortened to three to five years. The majority view also assessed that if Iraq acquired fissile material from an outside source that production time could be "within several months to a year", but noted that Iraq did not appear to have a "systematic effort to acquire foreign fissile materials from Russia [or] other sources." State/INR said that it could not predict when Iraq might acquire a nuclear weapon, since it lacked persuasive evidence of a reconstituted nuclear program*

and insert The NIE key judgments said "if Baghdad acquires sufficient fissile material from abroad it could make a nuclear weapon within several months to a year." The main text of the NIE added "although we have seen only a few Iraqi attempts to acquire material from abroad, those efforts do not seem to be part of systematic effort to acquire foreign fissile materials from Russia or other sources." State/INR said that it could not predict when Iraq might acquire a nuclear weapon, since it lacked persuasive evidence of a reconstituted nuclear program.

Comment – The paragraph as drafted distorts the NIE's key judgments which actually listed the assessment that Iraq could build a weapon in one year as the first bullet point. The characterization in the report makes it sound like an afterthought or as if it was the last and, therefore, most minor issue the NIE considered, which it was not. Also, how long it would take Iraq to indigenously develop fissile material was irrelevant to what the President was talking about. He specifically said he was discussing how long it would take Iraq to build a weapon if it "acquired" fissile material. Also, it should be clear that the detail about not detecting a systematic effort was from the main body of the NIE, not the key judgments.

Amendment 31

Page 11, second paragraph – *In the President's 2003 State of the Union Address, he stated that Iraq had pursued nuclear weapons even while weapons inspectors were in Iraq. He also said that the Iraqi regime had attempted to purchase aluminum tubes that could be used in a nuclear program, and that "the British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."*

While the intelligence community assessed that Iraq had initially attempted to continue its nuclear weapons program following the imposition of post-Gulf War sanctions, most agencies believed that the IAEA and UNSCOM had succeeded in destroying or neutralizing Iraq's nuclear infrastructure, and that the regime did not resume its pursuit of nuclear weapons until December 1998, when UNSCOM inspectors left the country.

Amendment 31 – insert after the first paragraph above He noted that Saddam "has not credibly explained these activities." Strike the second paragraph and insert The intelligence community assessed that Iraq had initially attempted to continue its nuclear weapons program following the imposition of post-Gulf War sanctions. In September 2002 the DCI submitted testimony to Congress that "revelations after the Gulf war starkly demonstrated the extent of [Iraq's] denial . . . The IAEA did not recognize ongoing uranium enrichment activities" at two sites inspected by the IAEA. Most agencies believed that the IAEA and UNSCOM had succeeded in destroying or neutralizing Iraq's nuclear infrastructure in the mid-1990s.

Comment – None of the above discussion from the report is relevant to what the President said. He said that Iraq had pursued a nuclear weapons program while inspectors were in Iraq. This statement is substantiated by intelligence. Director Tenet's submitted testimony to the SSCI and SASC from September 2002 notes that, "Revelations after the Gulf war starkly demonstrated the extent of that denial. Based on CIA briefings about two suspect nuclear sites, the IAEA inspected Tuwaitha and Tarmiyah in mid-May 1991. The IAEA did not recognize ongoing uranium enrichment activities using Electromagnetic Isotope Separation at these sites, as neither it nor the US intelligence community anticipated such work was underway." This testimony makes it clear that the intelligence community did say that Iraq's nuclear program continued while inspectors were in Iraq. Current views of reconstitution and views of whether the IAEA and UNSCOM stopped those activities are irrelevant to the analysis. Finally, there is no citation for these claims at all.

[REDACTED]

Amendment 32

Page 11, fourth paragraph – *The October 2002 NIE contained an annex on the high-strength aluminum tubes. Although all the intelligence agencies agreed that the aluminum tubes were a dual-use technology, DOE and State/INR assessed that it was unlikely that the tubes were being used for nuclear weapons-related purposes. Other agencies concurred with the majority view, which cited the aluminum tubes as the primary evidence of an ongoing nuclear weapons program. Neither the concurring nor dissenting agencies changed their view between the publication of the NIE and the invasion of Iraq.*

Amendment 32 – **strike** the above paragraph and **insert** - In the October 2002 NIE all intelligence agencies agreed that the aluminum tubes could be used for nuclear weapons and that Iraq was required to declare the imports and subject them to UN/IAEA monitoring, but DOE and State/INR assessed that it was unlikely that the tubes were intended to be used for nuclear weapons-related purposes. On December 17, 2002, CIA prepared an analysis of Iraq's weapons declaration which noted that it "fails to acknowledge or explain procurement of high specification aluminum tubes we believe suitable for use in gas centrifuge uranium enrichment effort" and "fails to acknowledge efforts to procure uranium from Niger, as noted in the UK dossier."

Comment – The President was discussing the fact that Iraq was importing aluminum tubes it was prohibited from importing and that it had not credibly explained these activities. He did not say these items were part of a reconstituted nuclear program, only that Iraq had not credibly explained why it was importing such materials. Intelligence noting that all agencies assessed the aluminum tubes could be used for nuclear weapons and were prohibited items is more relevant to the statement in question.

[REDACTED]

Amendments 33 and 34

Page 11, last paragraph – *An unclassified British white paper from September 2002 had assessed that Iraq had sought large quantities of natural (non-enriched) uranium from Africa. This was echoed by a statement in the NIE, which said “Iraq also began vigorously trying to procure uranium ore and yellowcake; acquiring either would shorten the time Baghdad needs to produce nuclear weapons.” This was not cited by the NIE as key evidence for an ongoing nuclear program. State/INR’s alternative views said that “the claims of Iraqi pursuit of natural uranium in Africa are, in INR’s assessment, highly dubious.”*

Amendment 33 – **strike** *This was echoed by a statement* and **insert** This assessment was also included .

Amendment 34 - **strike** *This was not cited by the NIE as key evidence for an ongoing nuclear program.*

Comment – We suggest not using the word “echoed” which makes it sound like the intelligence community took the idea from the British White Paper, which was not the case. In addition we do not think the characterization of “key evidence” is accurate (we do not think the NIE used the term evidence) and the President did not say it was key evidence of reconstitution so this sentence is irrelevant.

Amendment 38

Page 13, last paragraph – *On September 8, 2002, the National Security Advisor said that the aluminum tubes sought by Iraq “are only really suited for nuclear weapons programs”. Although both the CIA and DIA had assessed that the aluminum tubes were intended for a nuclear weapons program (with the CIA noting that the tubes were “best suited” for centrifuges, and that other explanations were “inconsistent with the total body of intelligence”), the DOE had assessed that this was unlikely, and had published intelligence reports explaining why it was possible (and, in the DOE’s view, more likely) that the tubes were intended to be used to build conventional rockets.*

Amendment 38 – ~~strike~~ *Although both the CIA and DIA had assessed that the aluminum tubes were intended for a nuclear weapons program (with the CIA noting that the tubes were “best suited” for centrifuges, and that other explanations were “inconsistent with the total body of intelligence”), the DOE had assessed that this was unlikely, and had published intelligence reports explaining why it was possible (and, in the DOE’s view, more likely) that the tubes were intended to be used to build conventional rockets.* and insert Both the CIA and DIA had assessed that the aluminum tubes were intended for a nuclear weapons program (with the CIA noting that the tubes were “best suited” for centrifuges, and that other explanations were “inconsistent with the total body of intelligence.”) In April 2001 CIA published a paper which said, “Iraq is trying to purchase items that have little use other than for a uranium enrichment program.” In August 2002, CIA published another paper which said, “Although we have considered alternative explanations for the tubes – such as their use in multiple rocket launchers (MRLs) – CIA concurs with ground forces weapons experts in the Intelligence Community that such an explanation is inconsistent with the overall body of intelligence on the subject.” More than a year earlier the DOE published an assessment that said an application other than centrifuge use was “more likely” but noted that “regardless of end use, the delivery of aluminum tubes with the reported specifications to Iraq would be prohibited” items under the Nuclear Suppliers Group and UN Security Council Resolutions.

Comment – We believe the report as drafted excludes relevant information which was far more likely to have been provided to Secretary Rice than a DOE assessment published a year earlier. These should be included and DOE’s judgments should be put in its own words, rather than those of the report authors. DOE used the words “more likely” not “unlikely.”

- CIA, SEIB 01-083CHX April 10, 2001, “Iraq is trying to purchase items that have little use other than for a uranium enrichment program.”
- CIA, August 2002, “Although we have considered alternative explanations for the tubes – such as their use in multiple rocket launchers (MRLs) – CIA concurs with ground forces weapons experts in the Intelligence Community that such an explanation is inconsistent with the overall body of intelligence on the subject.”

[REDACTED]

Amendment 39

Page 14, second non-bullet paragraph – [REDACTED] *Intelligence obtained after the Gulf War indicated that Iraq had developed two designs for nuclear weapons. Both apparently failed to meet key Iraqi objectives – the smaller of the two had an estimated yield of less than [REDACTED] and the larger of the two, which had an estimated yield of [REDACTED], could not be delivered by missile.*

Amendment 39 – **strike** [REDACTED] *Intelligence obtained after the Gulf War indicated that Iraq had developed two designs for nuclear weapons. Both apparently failed to meet key Iraqi objectives – the smaller of the two had an estimated yield of less than [REDACTED], and the larger of the two, which had an estimated yield of [REDACTED], could not be delivered by missile. and insert* [REDACTED] Numerous intelligence assessment noted that Iraq had developed two designs prior to the Gulf War. According to a 1999 IC nuclear assessment, “nuclear design efforts from 1988 through mid-1990 were focused primarily on [REDACTED] concepts and, in 1990, Iraq began to explore more advanced designs to permit smaller size and higher yield.”

Comment – [REDACTED] The Secretary’s comments were made prior to the publication of the NIE, so the citation of the NIE here is irrelevant. The Committee should include intelligence assessments which were published before the statement in question such as the following:

- “By 1991, Iraq had demonstrated sufficient calculational capability and an understanding of high-explosive systems to design devices with yields of as much as [REDACTED] for large diameter weapons and as much as [REDACTED] for more advanced designs.” PWR031202-12
- 1999 JAEIC assessment – “According to all available information, nuclear design efforts from 1988 through mid-1990 were focused primarily on [REDACTED] concepts and, in 1990, Iraq began to explore more advanced designs to permit smaller size and higher yield.”
- 1999 DIA assessment, DoD Futures Intelligence Program, “It previously performed field tests of nuclear weapon designs [REDACTED]”
- March 14, 2002 SPWR, *Iraq: Nuclear Weapon Design Program* PubNo: SPWR031402-02, According to Iraqi-supplied documents, seized Iraqi documents, and reporting from Iraqi defectors, Iraq by early 1991 had researched [REDACTED] designs and had conducted substantial work on an advanced [REDACTED] design [REDACTED]

[REDACTED]

Amendments 41 and 41(a)

Page 14, last paragraph – *In September 2002 the Vice President stated that there was “irrefutable evidence” that Iraq had reconstituted a nuclear weapons program. As noted, several intelligence agencies assessed that reconstitution was underway, but the Department of Energy assessed that the evidence was less conclusive (State/INR agreed with the Department of Energy, but had not published any reports on the topic outside of the State Department at that point).*

Amendment 41 – **strike** *but the Department of Energy assessed that the evidence was less conclusive.* and **insert** . In an assessment in August 2002, the DOE said, multiple-source reporting suggests that Saddam Hussein is seeking to reconstitute Iraq’s nuclear weapons program. Although the reporting produces no “smoking gun,” continued vigilance is required regarding Iraq’s attempts to rejuvenate its nuclear weapons program.” At hearing before the SSCI in September 2002, however, the DCI testified that “Iraq’s aggressive pursuit of high-strength aluminum tubes provides compelling evidence that Saddam is attempting to reconstitute a uranium enrichment effort for Baghdad’s nuclear weapons program.” No dissenting opinion regarding reconstitution was included in this testimony and the DOE witness testified that his agency had no disagreement with testimony presented about Iraq reconstituting its nuclear program.

Amendment 41(a) – **strike** *(State/INR agreed with the Department of Energy, but had not published any reports on the topic outside of the State Department at that point).*

Comment - Testimony from the DCI on September 17, 2002 to the SSCI and the SASC says “Iraq’s aggressive pursuit of high-strength aluminum tubes provides compelling evidence that Saddam is attempting to reconstitute a uranium enrichment effort for Baghdad’s nuclear weapons program.” There are no dissenting views mentioned on reconstitution during this testimony at all. The DOE never used the words “less conclusive.” We also note that State/INR could not possibly convey an agreement with DOE to policymakers if it did not publish a judgment. In addition, this information was added to the report after the majority imposed amendment filing deadline, without the permission of the minority, which is inappropriate.

Amendment 42

Page 15 - *Conclusion 1: Statements by the President, Vice President, Secretary of State and the National Security Advisor regarding a possible Iraqi nuclear weapons program were generally substantiated by intelligence community estimates, but did not convey the substantial disagreements that existed in the intelligence community.*

Prior to the October 2002 National Intelligence Estimate, some intelligence agencies assessed that the Iraqi government was reconstituting a nuclear weapons program, while others disagreed or expressed doubts about the evidence. The Estimate itself expressed the majority view that the program was being reconstituted, but included clear dissenting views from the State Department's Bureau of Intelligence and Research, which argued that reconstitution was not underway, and the Department of Energy, which argued that aluminum tubes sought by Iraq were probably not intended for a nuclear program.

Amendment 42 – **strike** the conclusion as drafted and **insert** All policymaker statements reviewed in this section were substantiated by the available intelligence.

Comment – It is impossible for us to properly analyze the claims in this conclusion without knowing which specific statements the report is referencing. Also, it is incorrect to say that “others” disagreed or expressed doubts about the evidence of a reconstituted nuclear program. At most, only one agency expressed any doubt about the reconstitution judgment and not in any document published outside its own agency prior to publication of the NIE. Although not stated definitely we believe that the statements this conclusion is referencing were made prior to the publication of the NIE, so the inclusion of INR's dissent referenced in the NIE is irrelevant and unfair to those speakers. Additionally, it is misleading to discuss DOE's dissent on the aluminum tubes but not include the fact that DOE agreed that Iraq was reconstituting its nuclear program.

Amendment 43

Page 16, Postwar Findings – entire section.

Amendment 43 – **strike** the postwar findings section

Comment - None of the postwar findings has citations so we cannot check their accuracy. Even with citations, we do not believe that postwar findings are in any way relevant to whether policymakers statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to confuse readers who may think statements are unsubstantiated if they turned out to be wrong.

[REDACTED]

Amendment 54

Page 26, third paragraph - *The DIA issued a report in February 2003, Iraq: Denial and Deception: Iraqi Countertargeting Strategy, that stated it was standard denial and deception practice for Iraq to place various military hardware in, among other things, "palm and date tree groves...", " but this report was issued after Secretary Powell's speech and did not mention biological weapons. There was operational intelligence traffic on this issue prior to the Secretary's speech, but the Committee is not aware of prior analytical assessments.*

Amendment 54 – **Strike** the above paragraph and **insert** The CIA provided an intelligence report for use in Secretary Powell's UN speech which said that an Iraqi missile brigade commander supervised the dispersal of his brigade's al Samoud and Ababil-100 missiles in order to hide them from UN inspectors. The report said that some of the missiles had warheads containing an "unknown biological agent" and that the missiles were hidden in "large palm groves."

Comment – The document which we asked the drafters to incorporate is not "operational intelligence traffic" as stated in the report. It is a TD (telegraphic dissemination), or intelligence report, and it was provided to the Committee by the CIA when the Committee asked specifically what information it provided to Secretary Powell for use in this speech. The fact that the Committee is unaware of "analytical assessments" is irrelevant, because the Committee agreed to use "intelligence" to compare to statements, not just "analytic assessments." This report was included in the Committee's first Iraq report on page 243 and should be included in this report as well.

Amendment 58

Page 28, BW Conclusions – *Conclusion 2: Statements in the major speeches analyzed, as well additional statements, regarding Iraq's possession of biological agent, weapons, production capability, and use of mobile biological laboratories were substantiated by intelligence information. Intelligence assessments from the late 1990s through early 2003 consistently stated that Iraq retained biological warfare agent and the capability to produce more. Assessments on the mobile facilities included the production capabilities of those labs, both in terms of type of agent and in amount. Prior to the October 2002 NIE, some intelligence assessments left open the question as to whether Iraq possessed biological weapons or that it was actively producing them, though other assessments did not present such uncertainties. Policymakers did not discuss intelligence gaps in Iraq's biological weapons programs, which were explicit in the October 2002 NIE.*

Amendment 58 – Strike *Prior to the October 2002 NIE, some intelligence assessments left open the question as to whether Iraq possessed biological weapons or that it was actively producing them, though other assessments did not present such uncertainties. Policymakers did not discuss intelligence gaps in Iraq's biological weapons programs, which were explicit in the October 2002 NIE.*

Comments – We do not think that the report has given any examples of intelligence assessments prior to the 2002 NIE which “left open the question as to whether Iraq possessed biological weapons or that it was actively producing them” except the 2000 ICA, which was published more than two years before the policymakers’ statements were made and before any of them entered office. In addition, we do not believe there were any intelligence gaps articulated in the October 2002 NIE about Iraq’s BW program, with the possible exception of a lack of understanding of the specifics about the types of weapons and biological agents that analysts stated were in the possession of the Iraqi government. If the report drafters think there are such gaps they should be described in the report.

Amendment 59(a)

Page 28, Postwar Intelligence, entire section

Amendment 59(a) – Strike the postwar findings section.

Comment - We do not believe that postwar findings are in any way relevant to whether policymakers’ statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to confuse readers who may think statements are unsubstantiated if they turned out to be wrong.

[REDACTED]

Amendment 68

Page 37-38, Conclusions - ***Conclusion 4: Statements by the President and Vice President prior to the October 2002 National Intelligence Estimate regarding Iraq's chemical weapons production capability and activities did not reflect the intelligence community's uncertainties as to whether such production was ongoing. The intelligence community assessed that Saddam Hussein wanted to have chemical weapons production capability and that Iraq was seeking to hide such capability in its dual use chemical industry. Intelligence assessments, especially prior to the October 2002 NIE, clearly stated that analysts could not confirm that production was ongoing.***

Amendment 68 – **Strike the above conclusion and insert *Conclusion 4: Statements by senior policymakers regarding Iraq's chemical weapons production capability and activities were all substantiated by intelligence information.***

[REDACTED] Comment – We dispute several of the contentions in this conclusion. The intelligence community assessed both before and after the NIE that Iraq had a chemical weapons production capability, not just that Saddam wanted one. (See the CIA SEM Dec 2001 – “Iraq in the past several years has rebuilt a covert chemical weapons production capability by reconstructing dual-use industrial facilities and developing new chemical plants”) Most of the assessments which judged that actual production was ongoing were contemporaneous with the NIE or slightly prior (see Tenet’s testimony to the Senate Armed Services Committee and SSCI below and the unclassified White Paper), but not all of them. More importantly, prior to the production of the NIE, no policymakers said that production was ongoing. If the report concludes that such statement is not substantiated, the report should clearly identify it so that it can be analyzed.

- We assess that Iraq retains a stockpile of at least 100 tons of agent . . . Moreover, Iraq is rebuilding former chemical weapons facilities, developing plants, and trying to procure chemical warfare-related items covertly . . . Based on these construction and procurement activities, we assess that Iraq has a covert chemical weapons production capability embedded in its civilian industry. *Tenet testimony before SASC and SSCI, September 16, 2002.*
- The main production building at Iraq’s Fallujah III chemical plant appears to have resumed operation, according to [REDACTED] . . . The Intelligence Community suspects this site supports production of CW precursors as well as the biological warfare agent ricin, extracted from castor oil beans. *INR, Iraq: Suspect CBW Production Facility Active, November 5, 2001.*

[REDACTED]

Amendment 69

Page 38, Postwar Findings section

Amendment 69 – **Strike** the postwar findings section.

Comment - We do not believe that postwar findings are in any way relevant to whether policymakers' statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to mislead readers who might think statements are unsubstantiated if they turned out to be wrong.

Amendment 70

Page 40, second full paragraph, (Scope Note) *Scope Note: The term 'weapons of mass destruction' (or 'WMD') is commonly used to refer collectively to nuclear, biological and chemical weapons.*

Amendment 70 – **Strike** the scope note paragraph and **insert** According to the October 2002 Iraq WMD White Paper, Iraq's biological, chemical, ballistic missile, and nuclear weapons programs were collectively referred to as weapons of mass destruction (WMD)

Comment/Suggestion – We disagree that the intelligence community's use of the term "WMD" excluded ballistic missiles and other WMD delivery vehicles. The Iraq WMD White Paper (or unclassified NIE) specifically states, "The Gulf war damaged Saddam Husayn's biological, chemical, ballistic missile, and nuclear weapons programs, collectively referred to as weapons of mass destruction (WMD)." The 2002 classified NIE on Iraq's WMD programs included four categories including delivery systems. The report's definition of what is included in the term WMD is incorrect and should include delivery systems. While this report's inclusion of the DOD's definition of WMD is interesting, this report is examining intelligence community judgments, not DOD's. What matters is what the intelligence community included in defining WMD in 2002 which, the above reference to the NIE and White Papers makes clear, included delivery systems.

[REDACTED]

Amendment 71 and 71(a)

Page 40, last full paragraph - *In the Vice President's August 2002 speech on Iraq, he stated that "there is no doubt that Saddam Hussein now has weapons of mass destruction," and that "there is no doubt he is amassing them". He also quoted a former Secretary of State referencing "the imminence of proliferation of weapons of mass destruction" with regard to Iraq as evidence that preemptive action was necessary.*

As noted, the term 'weapons of mass destruction' is commonly used to refer collectively to nuclear, biological and chemical weapons. The intelligence community never assessed that Iraq possessed nuclear weapons.

Amendments 71 – Strike *He also quoted a former Secretary of State referencing "the imminence of proliferation of weapons of mass destruction" with regard to Iraq as evidence that preemptive action was necessary.*

Amendment 71(a) - Strike *As noted, the term 'weapons of mass destruction' is commonly used to refer collectively to nuclear, biological and chemical weapons. The intelligence community never assessed that Iraq possessed nuclear weapons.*

Comments – We have several comments about these paragraphs: (1) Again, as stated above and as defined by the IC, the term WMD also includes delivery systems; (2) It seems that the report is actually trying to show that the Vice President misrepresented the intelligence because he used the collective term WMD rather than specifically stating biological, chemical weapons and the means to deliver those weapons. The Vice President clearly said in the speech that Iraq was working on developing nuclear weapons—which shows there was no effort to include nuclear weapons among the WMD he said Iraq had; and (3) The use of a collective term does not indicate that all elements of that term must exist for the term to be true and the intelligence community regularly uses the term WMD to refer to some WMD elements. For example:

- Tenet's Threat Hearing testimony said: "Intelligence reporting on Saddam's intentions to use WMD is clear and consistent"
- CIA/NESA PC briefing book points stated that "Iraq's activities since 1998 clearly show that it has repaired and expanded dual-use WMD facilities, increased WMD production capabilities, and advanced clandestine production and procurement."
- Tenet testimony for SASC/SSCI "Thus, experience shows that his regime will maintain weapons of mass destruction for use, not just deterrence" and "Saddam will never end his pursuit and possession of weapons of mass destruction" and Saddam "may decided that the extreme step of assisting the Islamist terrorists in conducting a WMD attack against the United States would be his last chance"
- August 10, 2001 CIA assessment, Developing Biological Weapons as a Strategic Deterrent, stated that "Iraq is attempting to address its regional security concerns by developing weapons of mass destruction and is focusing on biological warfare (BW) agents as a strategic deterrent"

[REDACTED]

Amendments 81-82

[REDACTED] Page 48, third non-bullet paragraph - *The Iraqi regime was known to have constructed underground facilities for a variety of purposes, but the intelligence community was not aware of any large, deeply-buried facilities. US intelligence analysts suspected that the regime might be using underground facilities to conceal weapons activities, and there was some unconfirmed reporting that suggested this, but no intelligence agency claimed to know the location of any active underground WMD facilities, and none expressed certainty that such facilities existed. The Defense Intelligence Agency assessed in 2001 that “elements of the regime’s weapons of mass destruction (WMD) and ballistic missile programs probably are located in underground facilities”, but noted that “[REDACTED] nor intelligence sources have confirmed any WMD- or ballistic missile related underground facilities.” An August 2002 DIA report noted that “Iraq has reportedly rebuilt its full offensive BW program in well-concealed, underground, mobile or difficult-to-locate facilities” but went on to state that “no biological weapons (BW)-related underground facilities are currently confirmed to be in use in Iraq”.*

Amendment 81-82 – **Strike the above paragraph and insert**

[REDACTED] The intelligence community had long assessed that the Iraqi regime had hardened or underground WMD storage facilities and WMD facilities disguised as civilian installations both to impede detection by inspectors and intelligence services and to protect facilities from air attack. Intelligence agencies assessed that Iraq had deeply buried underground facilities but had not identified any of these facilities.²⁰⁴ The Defense Intelligence Agency assessed in 2001 that “elements of the regime’s weapons of mass destruction (WMD) and ballistic missile programs probably are located in underground facilities,” noting that “numerous reports before and after DESERT SHIELD/STORM mentioned the existence of nuclear, biological, chemical, and ballistic missile, production and storage sites that were shallow buried UGFs or, in a few instances, even deep underground facilities. The assessment also noted that “[REDACTED] nor intelligence sources have confirmed any WMD- or ballistic missile related underground facilities.” An August 2002 DIA report also discussed reports of shallow and deeply buried biological warfare facilities. The report said that “despite these many seemingly credible reports and [REDACTED], no functioning biological weapons (BW)-related underground facilities are currently confirmed to be in use in Iraq”.²⁰⁵

Comment – Despite fixes made to this paragraph based on our earlier comments, as drafted it still is far more dismissive of the intelligence community’s assessments of underground facilities than the assessments themselves were. The reports should use the language used in the analytic papers.

²⁰⁴ NIC, Denial and Deception NIE, 1998

²⁰⁵ DIA, *Iraq: Chemical Warfare Program Handbook*, December 14, 2001; DIA, *Iraq: Biological Warfare Program Handbook*, August 2002.

[REDACTED]

Amendment 83

Page 48, last paragraph – page 49, first paragraph - *In November 2002, the National Intelligence Council noted, in an assessment prepared in response to a request from the Secretary of Defense, that “all the military and regime-associated UGFs [underground facilities] we have identified thus far are vulnerable to conventional, precision-guided, penetrating munitions because they are not deeply buried”.*

Amendment 83 – **strike** the above paragraph

Comment – The November 2002 NIE was published two months after the Secretary spoke and is therefore irrelevant to what he said. In addition, only select information was taken from this NIE which gives a distorted picture of what the NIE said. The following relevant information was excluded:

- “To date, the Community has located over 490 Iraqi operational UGFs associated with the military or the regime.
- “We assess that Iraq has some large, deeply buried UGFs, but, because of the Iraqi denial and deception (D&D) program, we have not been able to locate any of these.
- “All the military and regime-associated UGFs [underground facilities] we have identified thus far are vulnerable to conventional, precision-guided, penetrating munitions because they are not deeply buried.
- “The number of UGFs identified and the suspected number of UGFs still unlocated pose problems for effective operations of any UN inspection regime.”²⁰⁶

²⁰⁶ National Intelligence Council, *Implications of Iraqi Underground Facilities for US National Security*, November 2002.

[REDACTED]

[REDACTED]

Amendment 85

Page 49-50, conclusions - *Conclusion 5: Statements by the President, Vice President, Secretary of State and Secretary of Defense regarding Iraq's possession of weapons of mass destruction were generally substantiated by intelligence information, though many statements made regarding ongoing production prior to late 2002 reflected a higher level of certainty than the intelligence judgments themselves.*

Many senior policymaker statements in early and mid-2002 claimed that there was no doubt that the Iraqi government possessed or was producing weapons of mass destruction. While the intelligence community assessed at this time that the Iraqi regime possessed some chemical and biological munitions, most reports produced prior to fall 2002 cited intelligence gaps regarding production and expressed room for doubt about whether production was ongoing. Prior to late 2002, the intelligence community did not collectively assess with any certainty that Iraq was actively producing any weapons of mass destruction.

Amendment 85 – **strike generally and strike everything after information**

Comment – We disagree with the use of the term “generally,” because all of the statements were substantiated by the intelligence. Furthermore, the lack of identifying information about exactly which policymakers’ statements were viewed by the authors as reflecting a higher degree of certainty than the intelligence judgments makes it impossible for us to challenge the assertion (which we believe we could if the specific statements were identified). The conclusion is incorrect in asserting that there were “many statements regarding ongoing production prior to late 2002.” This is simply false. None of the statements from this time period mentioned ongoing production at all. It is also false to state that “many senior policymaker statements in early and mid-2002 claimed that there was no doubt” about Iraq’s possession of WMD. Only one policymaker used the term “no doubt” during this time period and it was in August 2002, not early 2002. This type of careless review certainly will be noticed by the readers of the report and harms the credibility of the Committee. We disagree with the comment that prior to 2002 the intelligence community “expressed room for doubt” about whether Iraq possessed chemical and biological munitions and believe, even if it were true, assessments prior to 2002 are irrelevant to what policymakers said in late 2002. We also disagree with including the comment that the intelligence community did not “collectively” assess that Iraq was actively producing any WMD. Whether the intelligence community had a “collective” judgment is irrelevant. The task of this report is not to look at only collective judgments; it is to examine available intelligence.

Amendment 86

Page 50, conclusions - ***Conclusion 6: The Secretary of Defense's statement that the Iraqi government operated underground WMD facilities that were not vulnerable to conventional airstrikes was not substantiated by available intelligence information.***

While many intelligence analysts suspected that the Iraqi government might be using underground facilities to conceal WMD activities, no active underground WMD facilities had been positively identified. Furthermore, none of the underground government facilities that had been identified were buried deeply enough to be safe from conventional airstrikes.

Amendment 86 – Strike the above conclusion and insert *Conclusion 6: The Secretary of Defense's statement that Iraqi WMD facilities were not all vulnerable to attack from the air was substantiated by available intelligence information.*

Comment – First, the Secretary did not say “conventional” airstrikes, he said that sites “were not all vulnerable to attack from the air.” No intelligence assessments prior to the Secretary’s statement said that “none of the underground WMD facilities that had been identified were buried deeply enough to be safe from conventional airstrikes.” Furthermore, the Secretary was not only talking about facilities that were vulnerable due to being deeply buried. He also discussed facilities that were believed to have been located near mosques, schools, and hospitals which made them “not vulnerable” to airstrikes unless we were willing to possibly strike those civilian facilities.

Amendment 87

Page 50, postwar findings

Amendment 87 – strike this section.

Comment - We do not believe that postwar findings are in any way relevant to whether policymakers’ statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to confuse readers who may think statements are unsubstantiated if they turned out to be wrong.

[REDACTED]

Amendment 90

Page 54, third paragraph - *Intelligence assessments regarding UAVs shifted after the October 2002 NIE. A subsequent NIE, Nontraditional Threats to the US Homeland Through 2007, published in January 2003, did not describe Iraq's UAV program as "probably intended" for biological weapons delivery, and instead stated that "Iraq may be modifying UAVs" for CBW delivery. This NIE also noted that Iraqi UAVs could reach the United States, if they were transported (in some unspecified manner) "to within a few hundred kilometers."*

Amendment 90 – **strike** the above paragraph and the next two paragraphs.

Comment – We do not believe that a document published in January, three months after the President made the speech should be analyzed in this section. It is not relevant to what the President said in October and, even if it were, the Threats to the Homeland NIE expressed the same concerns that the President addressed in his speech, that the UAVs could be used to target the Homeland. Additionally, the NIE used the term "strike" the Homeland, not "reach" the Homeland.

[REDACTED]

Amendment 96

Page 57-58 - *Conclusion 8: Statements by the President, Secretary of Defense and Secretary of State that Iraq was developing unmanned aerial vehicles (UAVs) that could be used to deliver chemical or biological weapons were generally substantiated by intelligence information, but did not convey the substantial disagreements or evolving views that existed in the intelligence community.*

The majority view of the October 2002 National Intelligence Estimate judged that Iraq had a UAV program that was intended to deliver biological warfare agents. Air Force intelligence dissented from this view, and argued that the new UAV was probably being developed for reconnaissance. The majority view of the January 2003 NIE said that Iraq "may" be modifying UAVs for chemical or biological weapons, and the Air Force, Army and Defense Intelligence Agency argued that the evidence for this was "not sufficiently compelling to indicate that the Iraqis have done so."

Amendment 96 – **strike generally; strike but did not convey the substantial disagreements or evolving views that existed in the intelligence community.**

The majority view of the October 2002 National Intelligence Estimate judged that Iraq had a UAV program that was intended to deliver biological warfare agents. Air Force intelligence dissented from this view, and argued that the new UAV was probably being developed for reconnaissance. The majority view of the January 2003 NIE said merely that Iraq might be modifying UAVs for chemical or biological weapons, and the Air Force, Army and Defense Intelligence Agency argued that the evidence for this was unpersuasive. and insert All intelligence agencies assessed that Iraq's UAVs could be used for CBW delivery.

Comments – Again, we disagree with the terms "generally" and we disagree that there was any disagreement within the intelligence community about whether the UAVs "could" be used to deliver CBW as the conclusion states. All agencies agreed that the UAVs could be used to deliver CBW, which is all that policymakers said. We further note that the Air Force dissent on the intended use of the UAVs was not included in the President's summary of the NIE.

[REDACTED]

Amendment 97

Page 58 - *Conclusion 9: The President's suggestion that the Iraqi government was considering using UAVs to attack the United States was substantiated by intelligence judgments available at the time, but these judgments were revised a few months later, in January 2003.*

The October 2002 National Intelligence Estimate noted that an Iraqi procurement network had attempted to purchase commercial mapping software that included data on the United States, and suggested that the Iraqi government was considering using UAVs to target the US. The January 2003 NIE revised this claim, and said only that the software could be used for this purpose. The Air Force, Army and Defense Intelligence Agency dissented from this judgment as well, and argued that the purpose of the Iraqi request was to acquire a generic mapping capability.

Amendment 97 – strike but these judgments were revised a few months later, in January 2003. strike and suggested and insert which the IC said suggested; strike *The January 2003 NIE revised this claim, and said only that the software could be used for this purpose. The Air Force, Army and Defense Intelligence Agency dissented from this judgment as well, and argued that the purpose of the Iraqi request was to acquire a generic mapping capability.*

Comment – We believe it is irrelevant whether the judgment later changed. This report is supposed to determine whether statements were substantiated by the intelligence policymakers had when they made the statement, not intelligence that came out later. Additionally, the President said “we are concerned that Iraq is exploring ways of using these UAVs for missions targeting the United States.” This statement is not inconsistent with the NIE published in January. The IC remained concerned about this possibility.

Amendment 98

Page 58, Postwar findings – entire postwar findings section

Amendment 98 – strike this section.

Comment - None of the postwar findings have citations so we cannot check their accuracy. Even with citations, we do not believe that postwar findings are in any way relevant to whether policymakers' statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to confuse readers who may think statements are unsubstantiated if they turned out to be wrong.

Amendment 99

Page 62, fifth paragraph - *Finally, the President stated that Saddam Hussein was "harboring terrorists and the instruments of terror, the instruments of mass death and destruction." While this statement was not specific to any group, the placement in the speech and the context suggests that the President was stating that Hussein was harboring al Qaeda. The statement appeared two paragraphs after statements that "...Iraq and the al Qaeda terrorist network share a common enemy," that some "al Qaeda leaders who fled Afghanistan went to Iraq," and that "Iraq has trained al Qaeda members in bomb-making and poisons and deadly gases." (These statements are discussed elsewhere in this report.) The President's statement came in the same paragraph as the statement "confronting the threat posed by Iraq is crucial to winning the war on terror."*

Amendment 99 – **Strike** the above paragraph after the first sentence.

Comment – We do not believe the President ever stated or implied that Saddam Hussein was harboring al-Qa'ida. In the referenced text he spoke specifically about harboring non-al-Qa'ida groups. We think it is stretching this project too far to not only purport to be the judge and jury of what policymakers said, but also what staff believes they "suggested" or "implied."

Amendment 106

Page 65, third paragraph - *The September 2002 CIA report Iraqi Support for Terrorism, which was coordinated with the DIA, stated that al-Libi said Iraq had "provided" unspecified CBW training for two al-Qa'ida associates in 2000, but also stated that al Libi "did not know the results of the training."*

Amendment 106 –after the sentence above **insert** Another version of the paper provided to the Committee with the same date did not include the comment that al-Libi "did not know the results of the training." The Committee did not ask why there were two versions of this paper and did not ask whether one or both versions were sent to the White House.

Comment - The Committee needs to get an answer about why there were two reports and find out whether both of them were disseminated. The report also should include the comments from both versions, not choose the one that best supports the point the authors are trying to make.

[REDACTED]

Amendment 108

Page 65, last paragraph – *Months prior to the speech and in the latter intelligence products cited above, questions were raised in finished intelligence about al-Libi's credibility.*

Amendment 108 – **insert** a new paragraph before the discussion of the State of the Union which says the following:

Despite these issues, when the White House submitted the speech for CIA fact checking and sources and methods clearances, a CIA staff member told the DCI in writing that the CIA analyst had “read all the terrorism paragraphs and said it was all okay.”(emphasis original) (all okay should be underlined.)

Comments - We know that this speech was fact checked by the CIA and we have this handwritten comment which shows that the CIA approved the language in the terrorism section. This should be stated in the report

Amendment 119

Page 71, conclusions - *Conclusion 12: Statements and implications by the President and Secretary of State suggesting that Iraq and al-Qa'ida had a partnership, or that Iraq had provided al-Qa'ida with weapons training, were not substantiated by the intelligence. Intelligence assessments, including multiple CIA reports and the November 2002 NIE, dismissed the claim that Iraq and al-Qa'ida were cooperating partners. According to an undisputed INR footnote in the NIE, there was no intelligence information that supported the claim that Iraq would provide weapons of mass destruction to al-Qa'ida. The credibility of the principal intelligence source behind the claim that Iraq had provided al-Qa'ida with biological and chemical weapons training was regularly questioned by DIA, and later by the CIA. The Committee repeats its conclusion from a prior report that "assessments were inconsistent regarding the likelihood that Saddam Hussein provided chemical and biological weapons (CBW) training to al-Qa'ida."*

Amendment 119 – strike the above conclusion and insert

Conclusion 12: Statements by the President and Secretary Powell that Iraq had provided al-Qa'ida with weapons training were supported by the intelligence. Numerous intelligence assessments stated that Iraq had provided al-Qa'ida with weapons training and specifically training in poisons and gases. While some DIA reports raised questions about the credibility of this reporting and one CIA report noted that the source may have exaggerated his reporting in a separate area, the CIA did not raise questions about the source's weapons training reporting and, in fact, provided and approved the use of this language in both the President's and Secretary's remarks.

Comments - None of the statements provided in this report suggested or implied that Iraq and al-Qa'ida had "partnership." Additionally, while there were policymakers who commented that Iraq had provided al-Qa'ida with weapons training, those comments were fully supported by the intelligence. The al-Libi reporting on CBW training was never questioned by the CIA and the information was approved by the CIA for use in both the President's Cincinnati speech and Powell's UN speech. In the case of the Powell speech CIA actually provided the information to him to use in the speech in the draft of the speech the CIA wrote. Furthermore, the conclusion as drafted says that intelligence community "assessments were inconsistent" so accordingly, how can the Committee judge policymakers to not have any statements substantiated by the intelligence?

[REDACTED]

Amendment 120

Page 71, conclusions - ***Conclusion 13: Statements in the major speeches analyzed, as well additional statements, regarding Iraq's contacts with al-Qa'ida were substantiated by intelligence information. However, policymakers' statements did not accurately convey the intelligence assessments of the nature of these contacts, and left the impression that the contacts led to substantive Iraqi cooperation or support of al-Qa'ida.***

Amendment 120 – ***strike However, policymakers' statements did not accurately convey the intelligence assessments of the nature of these contacts, and left the impression that the contacts led to substantive Iraqi cooperation or support of al-Qa'ida.***

Comments - We disagree that policymakers' statements did not accurately convey the nature of the contacts or left the impression that the contacts led to substantive Iraqi cooperation. Policymaker comments throughout this section nearly exactly matched what the intelligence community said about contacts. No policymaker implied that the contacts led to any Iraqi support of al-Qa'ida other than the safehaven, training, reciprocal non-aggression, which is well documented in numerous intelligence assessments. Furthermore, the comments from many of the policymakers outlined in the section were factchecked by the CIA. The report should identify the policymakers and the specific statements that are judged to be misleading so that we can analyze those statements.

Amendment 121

Page 72, conclusions - ***Conclusion 14. The Intelligence Community did not confirm that Muhammad Atta met an Iraqi intelligence officer in Prague in 2001.***

Amendment 121 – ***strike the above conclusion***

Comments - At the time that the Vice President commented that "it's been pretty well confirmed that [Atta] did go to Prague and he did meet with a senior official of the Iraqi intelligence service" a CIA assessment said, "The Czech Government last week publicly confirmed that suspected hijacker Muhammad Atta met with former Iraqi station chief Ahmad Khalil Ibrahim Samir al-Ani in Prague before al-Ani's expulsion from the Czech Republic last April. Al-Ani and Atta met during 8-9 April in Prague, according to a foreign government service." (Emphasis added.)

Amendment 122

Page 72, Postwar findings – entire section

Amendment 122 – **strike** all postwar findings

Comment - None of the postwar findings have citations so we cannot check their accuracy. Even with citations, we do not believe that postwar findings are in any way relevant to whether policymakers' statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to confuse readers who may think statements are unsubstantiated if they turned out to be wrong.

Amendment 125

Page 74, first non-bullet paragraph - *In major policy speeches the President, the Vice President and the Secretary of State all discussed Iraq's intentions regarding weapons of mass destruction. Both the President and the Vice President indicated that Saddam Hussein was prepared to share weapons of mass destruction with terrorist groups.*

Amendment 125 – **strike** the above sentence.

Comment/suggestion –None of these individuals discussed Iraq's "intentions" regarding WMD or anything else. Both the President and the Vice President expressed concern that Saddam could share WMD with terrorists, not that he intended to do so and they did not say or "indicate" that he was "prepared" to do so.

[REDACTED]

Amendment 126

Page 74, second – fourth full paragraphs –

(U) In the Vice President's August 2002 speech on Iraq, he discussed "the case of Saddam Hussein", and indicated that Saddam was "prepared to share [weapons of mass destruction] with terrorists who intend to inflict catastrophic casualties on the United States."

(U) At the time of the Vice President's speech, the intelligence community did not assess that Saddam Hussein was prepared to share weapons of mass destruction with terrorists. The intelligence community had previously assessed that Saddam was interested in acquiring WMD to deter hostile foreign powers (including Israel, Iran, and the US-led Coalition) and as a means of achieving "regional preeminence."

(U) The intelligence community had also assessed that Saddam was unlikely to take actions that he believed would threaten the survival of his regime, and that he believed hostile actions such as a re-invasion of Kuwait would in fact threaten his regime's survival.

Amendment 126 – strike the above three paragraphs and insert In the Vice President's August 2002 speech on Iraq, he discussed the threat of al-Qa'ida's pursuit of weapons of mass destruction. He noted that Cold War doctrines do not apply in this scenario, noting that "containment is not possible when dictators obtain weapons of mass destruction and are prepared to share them with terrorists who intend to inflict catastrophic casualties on the United States." Specifically regarding Iraq "armed with an arsenal of these weapons of terror" he said, "Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, directly threaten America's friends throughout the region, and subject the United States to any other nation to nuclear blackmail."

Comment – The Vice President did not say that Saddam was "prepared to share WMD with terrorists," nor did he indicate as much. The report should analyze what he said, not the drafters' interpretation of his comments. The VP was talking about al-Qa'ida pursuing WMD and said that Cold War doctrines of deterrence and containment do not work against these kinds of enemies. He said "containment is not possible when dictators obtain weapons of mass destruction, and are prepared to share them with terrorists who intend to inflict catastrophic casualties on the United States." He then went on in the next paragraph separately to discuss the case of Saddam Hussein. The report should not say that he said something about Saddam when he never even mentioned Saddam at all.

Amendment 127

Page 75, last three paragraphs – *In the President's September 2002 speech to the United Nations General Assembly, he stated that Saddam Hussein was a "grave and gathering danger", and that to assume Saddam's good faith would be tantamount to betting "the lives of millions and the peace of the world in a reckless gamble."*

The President also implied that the Iraqi regime was dangerous because it might provide weapons of mass destruction to terrorists ("And our greatest fear is that terrorists will find a shortcut to their mad ambitions when an outlaw regime supplies them with the technologies to kill on a massive scale. In one place – in one regime – we find all these dangers....")

The intelligence community did not assess that Saddam Hussein dealt with other countries in good faith and assessments regarding the potential use of WMD were not based on assumptions of good faith. As discussed, the 1999 NIE on Iraqi military capabilities noted that it was difficult to gauge Saddam's intentions, but judged that he would be careful not to put his regime's survival at risk.

Amendment 127– Strike *In one place – in one regime – we find all these dangers....");* **Strike** *The intelligence community did not assess that Saddam Hussein dealt with other countries in good faith and assessments regarding the potential use of WMD were not based on assumptions of good faith. and insert* In a December 15, 2001 assessment titled *The Iraqi Threat*, the CIA said "Saddam sees himself as a pan-Arab leader and views his regime as the most glorious chapter in Iraqi history . . . His decision-making is guided by opportunism, distrust of others, a personal need for power, and the sense that he is an historic figure who must take bold risks to advance Iraq's interests. He views state power primarily in military terms—twice launching wars against his neighbors—and his strategic aim is to establish Iraq as the preeminent power in the Persian Gulf."

Comment – The last portion of the comment from the President in the second paragraph above was not referencing Saddam giving weapons to terrorists as the draft suggests. The President had explained several dangers in the previous few paragraphs including poverty and raging disease, ethnic and religious strife, and outlaw groups which accept no law and have no limit to their violent ambitions. These were the dangers he was talking about, but when the comments are taken out of context, that understanding is lost. Also, trying to contradict the President by saying what the intelligence community did not assess is ridiculous. The President did not claim that this was an intelligence community judgment.

[REDACTED]

Amendment 128

Page 76, first four full paragraphs - *At the time of the President's UN speech, the October 2002 NIE was still being prepared, and was two weeks away from release. While the document itself was not available at this time, its consistency with the 1999 NIE, and the lack of contradictory assessments in the intervening four year period, illustrate the continuity of the intelligence community's judgments on this topic.*

(U) The October 2002 NIE assessed that "Saddam's past actions suggest that a decision to use WMD probably would come when he feels his personal survival is at stake even after he has exhausted all political, military and diplomatic options". It noted that it the US would be unlikely to know when Saddam felt that he had no other options for self-preservation, but pointed out that "Iraq's methodical conventional defensive preparations also suggest Saddam thinks an attack is not imminent".²⁰⁷

(U) Additionally, the NIE pointed out that "Iraq's historical use of CW against Iran and its decision not to use WMD against Israel or Coalition forces in 1991 indicates that an opponent's retaliatory capability is a critical factor in Saddam's decisionmaking."²⁰⁸

(U) The NIE also examined a variety of ways in which Iraq might conceivably use WMD, and noted that overall "we have low confidence in our ability to assess when Saddam would use WMD."

Amendment 128— **strike** all of the above paragraphs.

Comment – An NIE published after the President's speech is irrelevant.

²⁰⁷ National Intelligence Estimate, *Iraq's Continuing Programs for Weapons of Mass Destruction*, October 2002.

²⁰⁸ Ibid.

[REDACTED]

Amendments 129

Page 76, last paragraph - *While the October 2002 NIE assessed that Iraq possessed chemical and biological weapons, it judged that Saddam was unwilling to conduct terrorist attacks targeting the United States at that time. According to the NIE, "Baghdad for now appears to be drawing a line short of conducting terrorist attacks with conventional or CBW against the United States, fearing that exposure of Iraqi involvement would provide Washington a stronger case for making war."*

Amendment 129 – **strike** this paragraph and the next two paragraphs.

Comment – The NIE did not say that Saddam was unwilling to conduct terrorist attacks targeting the United States at that time. Furthermore, we believe all of this analysis and the analysis in the next two paragraphs are irrelevant and should be deleted. The President was not making a comment about what Iraq was likely to do now, he was specifically talking about the danger of waiting until Saddam had more powerful weapons which could change his calculations about the wisdom of giving WMD to terrorists. Nothing in the intelligence reporting casts doubt on the President's comments that Iraq "could" give WMD to terrorists.

Amendment 130

Page 77, second paragraph - *As discussed elsewhere in this report, in October 2002 most intelligence agencies assessed that Iraq reconstituting a nuclear weapons program. The State Department's Office of Intelligence and Research (State/INR) believed that Saddam Hussein wanted to possess nuclear weapons, and was maintaining some capabilities with dual uses, but judged that the available evidence did "not add up to a compelling case for reconstitution."*

Amendment 130 – after the above start a new paragraph and insert In a statement released by the DCI about the President's comment he said, "There is no inconsistency between our view of Saddam's growing threat and the view as expressed by the President in his speech. Although we think the chances of Saddam initializing a WMD attack at this moment are low-in part because it would constitute an admission that he possesses WMD-there is no question that the likelihood of Saddam's using WMD against the United States or our allies in the region for blackmail, deterrence, or otherwise grows as his arsenal continues to build. His past use of WMD against civilian and military targets shows that he produces these weapons to use, not just to deter."

Comment – The statement released by the DCI is relevant in this section and should be included. It explains that the President's comments were consistent with the intelligence at the time and that the President and the intelligence in question were discussing two different things. We believe it also illustrates why the entire intent section is a distortion of what the policymakers in question were discussing, which was not Saddam's intent at all.

[REDACTED]

Amendment 131

Page 77, last two paragraphs – page 78, first two full paragraphs – *As discussed, the October 2002 NIE judged that Saddam Hussein was unwilling to conduct terrorist attacks targeting the United States at that time. More generally, it suggested that Saddam would probably decide to use WMD only if he felt he had no other options for survival and that “an opponent’s retaliatory capability” would be a key factor in making this decision.*

A November 2002 NIE on nontraditional threats restated the October NIE’s assessment about Saddam’s willingness, if “sufficiently desperate” to employ an outside terrorist group to conduct an attack on the US as his “last chance for vengeance.” This NIE included the caveats that the intelligence community had low confidence in this assessments, and that “INR believes that the intelligence community has no reporting to support this assertion.”

The October 2002 NIE’s conclusions were essentially repeated again in a January 2003 Intelligence Community Assessment which said that “Saddam probably will not initiate hostilities for fear of providing Washington with justification to invade Iraq. Nevertheless, he might deal the first blow, especially if he perceives that an attack intended to end his regime is imminent.”

Neither of these reports specifically focused on what Saddam might do if he had nuclear weapons or a “full arsenal” of chemical and biological weapons, possibly because the intelligence community believed that Iraq was still years away from possessing either of these.

Amendment 131 – **Strike** the first and last paragraphs above

Comment – The NIE did not say that Saddam Hussein was “unwilling” to conduct terrorist attacks and the President did not say that he would, he said that he could provide a chemical or biological weapon to terrorists.

[REDACTED]

Amendment 132 and 133

Page 78, third full paragraph –

Secretary of State's Address to the UN Security Council (February 5, 2003)

(U) In the Secretary of State's February 2003 address to the United Nations Security Council, he stated that "ambition and hatred are enough to bring Iraq and al-Qaida together, and that "al-Qaida could turn to Iraq for help in acquiring expertise on weapons of mass destruction."

Amendment 132 – **insert** before *ambition and hatred* "Some believe, some claim that these contacts do not amount to much. They say Saddam Hussein's secular tyranny and al-Qa'ida's religious tyranny do not mix. I am not comforted by this thought.

Amendment 133 – **insert** a new paragraph after the paragraph in Amendment 132 which says: Several intelligence reports described a mutual antipathy for the United States as a motivation for their contacts and dealings including the following:

- A range of intelligence reports indicates Baghdad and al-Qa'ida have been in contact since at least the mid-1990s. Mutual suspicion has blocked cooperation at various times, but shared antipathy toward the US and the Saudi royal family has provided a potential rationale for cooperation. CIA, SPWR, May 14, 2002
- Iraq's interaction with al-Qa'ida is impelled by mutual antipathy toward the United States and the Saudi royal family and by Bin Ladin's interest in unconventional weapons and relocation sites. In contrast to the patron-client pattern between Iraq and its Palestinian surrogates, the relationship between Saddam and Bin Ladin appears to more closely resemble that of two independent actors trying to exploit each other—their mutual suspicion suborned by al-Qa'ida's interest in Iraqi assistance and Baghdad's interest in al-Qa'ida's anti-US attacks. Jan 2003, Iraqi Support for Terrorism p. 11
- Discerning the reasons for Saddam's contacts and dealings with al Qa'ida is difficult, but his main motivation may be best expressed by the old proverb 'the enemy of my enemy is my friend.' The theme repeated by sources close to various levels of Saddam's regime is that Saddam and Bin Ladin recognized the United States as a common enemy, that Saddam came to see al-Qa'ida as a force to be reckoned with, and that for all their differences and mutual wariness, at various times their interests coincided. – CIA input to Powell speech p.4 also Jan 2003 Iraqi Support for Terrorism
- Shared antipathy toward the US and Saudi Arabia provides possible common ground for cooperation, despite competing ideologies and mutual suspicion. June 25, 2002 SPWR, Iran-Iraq-Syria: Willingness to Overlook Ideology in Their Relations With Terrorist Groups

Comment – The report as drafted left off relevant portions of the Secretary's comments and excluded several intelligence reports with direct relevance to the Secretary's comments. These should have been added.

[REDACTED]

Amendment 134

Page 78, fourth full paragraph - *The intelligence community did not assess that Iraq and al-Qaida had a cooperative relationship. In June 2002 the CIA compared Iraq and al-Qaida to "rival intelligence services, with each trying to exploit the other for its own benefit." While there was evidence of limited contacts throughout the 1990s, the CIA assessed that these contacts did not add up to an established relationship. In a January 2003 report the CIA noted that "Saddam Husayn and Usama bin Laden are far from being natural partners", and stated that while there was little specific intelligence about Saddam's opinion of al-Qaida, "his record suggests that any such ties would be rooted in deep suspicion."*

Amendment 134— **Strike** the entire paragraph

Comment – Secretary Powell never said that Iraq and al-Qa'ida had a cooperative relationship and the CIA never assessed that "these contacts did not add up to an established relationship." If there is such a document, it should be cited.

Amendment 135

Page 78, last partial paragraph - *As discussed, the October 2002 NIE assessed that Saddam Hussein was unwilling to provide weapons of mass destruction to terrorist groups at that time, because he did not want to put his regime's survival at risk. It noted that information on possible training of terrorists was "second hand, or from sources of varying reliability."*

Amendment 135 – **Strike** the above paragraph.

Comment – The NIE never used the term "unwilling." Furthermore, Secretary Powell's entire UN speech was checked by the intelligence community, and some areas were actually drafted by the CIA. Obviously the intelligence community believed it was substantiated by intelligence because they approved it.

[REDACTED]

Amendment 136

Page 82, conclusions - ***Conclusion 15: Statements by the President and Vice President indicating that Saddam Hussein was prepared to give weapons of mass destruction to terrorist groups for attacks against the United States were contradicted by available intelligence information. The October 2002 National Intelligence Estimate assessed that Saddam Hussein did not have nuclear weapons, and was unwilling to conduct terrorist attacks the US using conventional, chemical or biological weapons at that time, in part because he feared that doing so would give the US a stronger case for war with Iraq. This judgment was echoed by both earlier and later intelligence community assessments. All of these assessments noted that gauging Saddam's intentions was quite difficult, and most suggested that he would be more likely to initiate hostilities if he felt that a US invasion was imminent.***

Amendment 136 – **Strike** the above conclusion

Comment – All of the claims in this paragraph are false. Neither the President nor Vice President said or indicated that Saddam “was prepared to give WMD to terrorist groups for attacks on the US.” Furthermore, the intelligence community made no assessments about whether Iraq “could” give WMD to terrorists, so the only intelligence information that could be compared to these statements is whether the intelligence community assessed Iraq had such weapons to give, which the intelligence community did. The statement that the NIE said Iraq was “unwilling” to conduct terrorist attacks is false. The NIE never said that. This judgment was not echoed in earlier assessments at all.

Amendment 137

Pages 73-83, Intent section

Amendment 137 – **Strike** the entire intent section

Comment – As discussed in several previous amendments, we believe the intent section as a whole is distorting what policymakers were arguing at the time. They were not arguing that Saddam “intended” to do any of the things they were discussing, the argument was that, after September 11, we must refocus the debate on what Saddam could do. The intelligence community had low confidence in its judgments of Saddam’s intent which bolstered the case of policymakers that, in light of such uncertainty, the focus needs to be on capabilities.

Amendment 138

Page 82-83, Postwar findings – entire section

Amendment 138 – **Strike** the postwar findings section.

Comment - We do not believe that postwar findings are in any way relevant to whether policymakers' statements made prior to the war were substantiated by intelligence available at the time. This information was already reported in another Phase II report, is unnecessary, and is likely to mislead readers who may think statements are unsubstantiated if they turned out to be wrong.

Amendment 140

Pages 84-88, Post-War Iraq section

Amendment 140 – **Strike** the Post-War Iraq section

Comments - This entire section is comparing apples to oranges. It compares statements made by policymakers discussing their opinions about postwar Iraq to intelligence unrelated to the comments made. In one case the Vice President quotes a Middle East expert, yet that comment too, according to the draft, must be substantiated by intelligence. We simply cannot expect policymakers to have their comments comport with intelligence even when their comments have nothing to do with intelligence.

[REDACTED]

MINORITY VIEWS OF SENATOR WARNER

I agree with many of the points made in the minority views of Senators Bond, Hatch, Chambliss, and Burr about the conduct and the content of this portion of the Committee's Iraq review effort. I offer these views to focus on the issues which I believe are the most significant and troubling problems with the two reports released today. These concerns should be of no surprise to the Committee Chairman, or any of the Members who attended the business meeting to vote on these so-called Phase II reports, as I have made these points before.

I am disappointed that the Committee missed an opportunity to have the staff work out many of the remaining problems with these reports. Staff from both sides of the aisle had commented that progress was being made and that more progress was possible, and, in fact likely, if there had been time allotted to that end. It is unfortunate that such time was not provided because many of the factual problems that remain in the reports may have been corrected. Instead, in the form voted on by a majority of my colleagues, the reports contain numerous inaccuracies, lack complete information, and are not reports that I could support. These inaccuracies are explained in detail in the appendix of amendments attached to the Vice Chairman's minority views.

It is more disappointing that a motion offered by the Vice-Chairman—one I considered exceedingly important—was not given a vote or full consideration during the business meeting. The motion called for those individuals who are alleged in the reports to have made statements that were not substantiated by intelligence or to have otherwise failed in their duties, be afforded the opportunity to come before the Committee to have the opportunity to comment. In the spirit of fairness and full disclosure, these individuals should have been called to meet with the Committee long before the Chairman scheduled a vote on these reports. I believe the failure to do so was unjust to the individuals in question.

One of the most fundamental tenets in our great Republic is the opportunity to confront one's accuser. While the Senate Select Committee on Intelligence is certainly not a court of law, these reports will undoubtedly be released to the public and scrutinized, therefore, in the court of public opinion. The individuals who are named in these reports must be afforded the opportunity to be heard about their statements, about the intelligence that was available to them, and to defend themselves if they deem it necessary.

I believe this is particularly important in this case, because as the Vice Chairman's minority views state, the reports as drafted lack important and relevant information. We know, for example, that information provided by the intelligence community for use in Secretary Powell's speech to the United Nations, was knowingly excluded from the report. We have an obligation to ask Secretary Powell about this information and any other information the intelligence community provided of which the Committee may not be aware.

Because I was so concerned about what I consider to be a fundamental issue of fairness, I urged the Committee to contact the individuals named in this report, prior to its release, to allow them to at least reply to what I believe are significant accusations. Although any responses and

[REDACTED]

any additional information cannot be incorporated into the reports themselves, the information can at least be made part of the record. While I do not believe this is an acceptable alternative, it will have to suffice.

I have served on this Committee for many years—once as ranking member—and I believe the Committee can best serve the Senate and the public, if we can achieve a high level of bipartisanship. The subject of these reports was a difficult challenge; but, it is behind us now and I will work with all other members to achieve bipartisan solutions in the future.

JOHN WARNER

Jeff Bond [REDACTED] *Sayby Chambliss*
MINORITY VIEWS OF SENATOR CHAMBLISS, VICE CHAIRMAN BOND, AND SENATOR HATCH
John G. Hatch

The final two Phase II reports and the process that produced them are a great disappointment. The products are poor and the process that produced them was regrettable. Although the Minority requested to be involved in the production of these reports at the start of the 110th Congress, we were excluded from the drafting of these reports and deprived of any meaningful role in the work that produced them.

We believe the Senate Intelligence Committee, above all others in the Senate, should be a Committee where Members work together absent political agendas for the good of the nation. The process that produced these reports, unfortunately, was not in keeping with that conviction, and we are disappointed with the results. We fully concur with the Vice Chairman's views submitted as an assessment on the substance of the two reports; here, however, we believe it is necessary to make known our disappointment over the process by which they were produced.

On February 12, 2004, the Committee voted to authorize Phase II of this Committee's inquiry regarding the prewar intelligence on Iraq. Many of the Committee Members' votes in support of authorizing Phase II of the investigation were based primarily to facilitate a unanimous consensus in completing the Committee's Phase I report. That report was fair, accurate, and thorough, and proved to be the only substantive and bipartisan portion of this Committee's investigation into the prewar intelligence on Iraq. Since that time, rather than focusing on how to improve our Intelligence Community or placing the full emphasis of our oversight on reforming the Intelligence Community following its reorganization in 2004, the Committee has spent four years looking backwards at past events that had already been examined by the Committee and by a number of independent Commissions. In addition, this latest round of the Committee's Phase II reports and the manner in which they were produced calls into question the integrity of the Committee to act without bias in its oversight role over the Intelligence Community.

Past Committee Practice

The handling of these Phase II reports represents a significant departure from past Committee practice. In the Committee's Phase I investigation, staff briefed the Members on a proposed work plan prior to initiating the investigation. Members on both sides of the aisle had an opportunity to request directly that specific areas of concern be investigated and to frame the scope and methodology of the investigation before it even began. At least fifteen times during the staff portion of the investigation, the Members of the Committee met to receive briefings and discuss issues related to the ongoing investigation. Before the Committee scheduled a meeting to adopt the Phase I report, Members had a draft report for over five months which they reviewed and edited, and had the ability to request further information. It was only after at least four additional business meetings of the Committee to discuss the drafts that conclusions were formulated based upon Members' input and the Committee's review of the text. At all times throughout this investigation, the Minority had access to, and provided feedback on, the investigative process. This is not to say that the Minority was happy with every decision the Committee ultimately made, but they were briefed fully, had their concerns addressed either

[REDACTED]

through negotiations or amendments, and along with the Majority, they unanimously supported the Committee's report.

During the Committee's first round of Phase II reports in the 109th Congress, the Committee held at least a dozen business meetings to discuss and receive briefings on two drafts—(1) *The Use By the Intelligence Community of Information Provided by the Iraqi National Congress* and (2) *Postwar Findings about Iraq's WMD Programs and Links to Terrorism and How They Compare with Prewar Assessments*. Members had an opportunity to propose additions to the reports and to draft conclusions over a period of ten months before reporting them out of Committee. During these discussions, Minority concerns and suggestions were responded to and addressed, including requests for interviews and documents. In some instances, at the request of the Minority, information was even incorporated into the reports which was not required by the terms of reference for the inquiry in order to achieve comity among the Members of the Committee.

Current Phase II Reports

Unfortunately, the process by which the current Phase II reports were drafted did not conform even remotely to the Committee's previously bipartisan process. From the time the new Democrat Majority resumed the Phase II effort last year, Minority Members and Minority staff were excluded from the process. Several Majority staff were assigned to produce the two drafts, and numerous requests from the Minority were denied, including requests to address scope problems, requests to conduct necessary interviews, and requests to include additional information. The Majority even denied the Minority access to the draft reports until *two months* after the Majority had reviewed them. We believe that working together from the start would have precluded any significant disagreement over the scope, method, and procedure for producing these reports. As it turned out, we had very little input into these drafts and were not allowed adequate time to review and comment on them.

The Minority was provided with the draft reports on January 15, 2008—reports which *included staff drafted Committee conclusions*. This was particularly disappointing to us because we believe that elected members of the Senate, not a few majority staff, should be forming the final conclusions on whether the highest officials of the Republic acted appropriately with regard to pre-war intelligence. At the first Committee meeting on Phase II, action on the drafts was postponed and no substantive discussion of the drafts occurred; from the time the drafts were circulated to Committee Members to their adoption on April 1, 2008, the Committee did not hold one business meeting where the substance of the reports was addressed. This stands in stark contrast with past Committee practice.

For example, in late 2005, Chairman Rockefeller, Senator Levin, and Senator Feinstein wrote to the Senate leadership stating that during the Committee's Phase I review the "Committee members and staff were given reasonable opportunities to review the draft sections of the report *early in the process* and to provide input and suggest changes to the report" (emphasis added). The letter added that the "Phase II investigation is an equally substantial task, and it is important for the Committee to approach it with the same process." Unfortunately, this inclusive process was not followed by those who earlier had prescribed it.

Adoption of the Reports

If Chairman Rockefeller had conducted the current investigation according to the framework he insisted upon in his 2005 letter, we would have few objections to this process. Due to the little input that we were allowed, however, the Minority exercised its only option and filed over 170 amendments prior to the first business meeting scheduled to consider the Phase II reports. A number of these amendments addressed clear errors and contradictions in the draft reports that should have been addressed among staff during the production of the reports. As a consequence, those amendments that pointed out clear errors in drafting were addressed before the meeting on April 1, 2008. At that business meeting, the only one held to consider the substance of the Phase II reports, the Minority still had over 100 amendments outstanding. Additionally, five procedural motions were submitted for consideration in order to eliminate the need to work through all 100 amendments. Instead of allowing any consideration of the Vice Chairman's motions beyond the first or any of his remaining amendments, the Chairman cut off discussion and unilaterally called for a vote on final adoption of the reports. We cannot think of any time in our recollection of Committee proceedings or other Senate proceedings where there has been such a disregard for the rules, procedures, and traditions of the Senate.

Especially curious to us was the fact that the final vote was called for even though the reports were not yet finished. Rather, after the vote the majority made clear its intention to finish the reports on its own. This defies basic principles of fairness and sets a dangerous precedent. Never in the history of Phase I or Phase II were Members expected to vote on a report without the opportunity to be briefed on it several times and without having months to review and amend it, let alone be called to vote on a report that was not even finished.

Rules and procedures in the Senate and its Committees provide stability and legitimacy to the body's actions. Thomas Jefferson's *A Manual of Parliamentary Practice*, on the importance of rules in Congress, states:

It is much more material that there be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or capriciousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

If decisions are approved according to orderly and fair proceedings, then the public is more likely to accept the results of those decisions. The rules of the Senate tend to advance the Minority's rights and prohibit arbitrary procedures.

It is ironic that the Majority would act outside the rules in order to adopt reports that accuse the Administration of distorting and mischaracterizing prewar intelligence on Iraq. As the Vice Chairman's minority views point out, these reports, crafted by the Majority, fail even to achieve their intended purpose. The Senate Intelligence Committee's unanimously approved July 2004 Phase I report makes clear that flawed intelligence—not Administration deception—was the basis for policymakers' statements and decisions. None of the facts in these last two reports changes or negates the Committee's unanimous conclusion four years ago.

[REDACTED]

Despite the Committee's 2004 Report, these final two reports attempt to distort what the Intelligence Community assessed prior to the war in order to advance a presumed, politically advantageous argument. Yet those of us in Congress examined the same intelligence as the Bush Administration, and policymakers from the Legislature also characterized Iraq as a growing and dangerous threat to the United States. In fact, the public record is replete with examples of statements by Members of Congress making the same characterizations regarding Iraq's WMD and links to terrorism:

There is unmistakable evidence that Saddam Hussein is working aggressively to develop nuclear weapons and will likely have nuclear weapons within the next 5 years. – Chairman John Rockefeller, Senate Foreign Relations Committee hearing, September 25, 2002.

In the four years since the inspectors, intelligence reports show that Saddam Hussein has worked to rebuild his chemical and biological weapons stock, his missile delivery capability, and his nuclear program . . . It is clear, however, that if left unchecked, Saddam Hussein will continue to increase his capability to wage biological and chemical warfare, and will keep trying to develop nuclear weapons. – Senator Hillary Clinton, Statement on the Senate Floor, October 10, 2002.

When you look at what Saddam Hussein has at his disposal, in terms of chemical, biological, and perhaps even nuclear weapons, we cannot ignore the threat that he poses to the region and the fact that he has fomented terrorism throughout his reign. – Senator Dick Durbin, CNN's Larry King Live, "The Hunt for Bin Laden Intensifies; What is to be done with John Walker?," December 21, 2001.

The President has rightly called Saddam Hussein's efforts to develop weapons of mass destruction a grave and gathering threat to Americans. The global community has tried but has failed to address that threat over the past decade. I have come to the inescapable conclusion that the threat posed to America by Saddam's weapons of mass destruction is so serious that despite the risks and we should not minimize the risks we must authorize the President to take the necessary steps to deal with that threat.... There has been some debate over how "imminent" a threat Iraq poses. I do believe Iraq poses an imminent threat. I also believe after September 11, that question is increasingly outdated. It is in the nature of these weapons that he has and the way they are targeted against civilian populations, that documented capability and demonstrated intent may be the only warning we get. To insist on further evidence could put some of our fellow Americans at risk. Can we afford to take that chance? I do not think we can. – Chairman John Rockefeller, Statement on the Senate Floor, October 10, 2002.

Saddam's existing biological and chemical weapons capabilities pose real threats to America today, tomorrow He could make these weapons available to many terrorist groups, third parties, which have contact with his government. Those groups, in turn, could bring those weapons into the United States and unleash a devastating attack

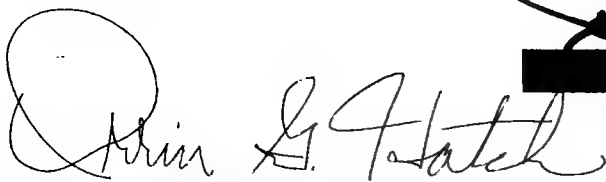
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against our citizens. I fear that greatly. – **Chairman John Rockefeller, Statement on the Senate Floor, October 10, 2002.**

Ultimately, these reports reveal a dubious agenda of vainly trying to prove the often quoted, but false, absolutely partisan, slogan, “Bush lied and people died.” The Committee and the American people know full well that the intelligence on Iraq’s WMD programs was wrong, and that senior policy leaders from both parties relied upon that incorrect intelligence to the nation’s detriment. Rather than wasting time and resources on this futile quest, the Committee should have spent, and should be spending, the full force of its oversight ensuring that the Intelligence Community does not make such egregious errors in intelligence analysis ever again.

Any investigation that the Committee conducts should be done with the intention of improving the Intelligence Community and enhancing our national security. Regrettably, these reports neither improve our Intelligence Community nor enhance our national security. It is at the expense of long-standing Senate precedence and the credibility of this Committee that this futile and partisan exercise has been conducted. We believe it is vital for this Committee to return to bipartisan oversight and to depart from such wasteful practices. Unless we do so, intelligence oversight will turn into an oxymoron.

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ADDITIONAL VIEWS OF SENATOR HATCH JOINED BY VICE CHAIRMAN BOND AND SENATOR BURR

(U) In July, 2004, the Senate Select Committee on Intelligence issued the *Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, subsequently colloquially referred to as "Phase One" of the Committee's investigation into intelligence failures related to the Iraq war. This report of over 500 pages, including 117 conclusions, was the most substantive investigation into a major intelligence failure since the original Church hearings and investigations that preceded the formation of the Committee in 1975. The substance of this report -- the careful parsing of the multiple intelligence failure -- is still being processed by the Intelligence Community and our oversight committees. This report was voted out of this Committee unanimously. *The New York Times* -- not known for its sympathy to either the Republican administration or the Republican Senate leadership at the time -- wrote: "The Senate report was remarkable both for the severity of its criticism and *the fact that it reflected a bipartisan consensus rarely seen in Congress.*" (Emphasis throughout is mine.)

(U) Several months before the release of that report, the Committee concluded an agreement for subsequent investigations. These investigations -- known since then as "Phase Two" -- devolved from the beginning into partisan disagreement. The process, efforts and results under Phase Two -- including the two reports that complete the process with this publication -- failed significantly in achieving unanimous consensus. On no other matter subject to congressional oversight is unanimous consensus more of an indicator of success or failure than it is on oversight of intelligence matters.

(U) The publication of these two reports -- *Intelligence Activities Relating to Iraq by the Policy Counterterrorism Evaluation Group and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy* and *Whether Public Statements Regarding Iraq by U.S. Government Officials Were Substantiated by Intelligence Information* (hereafter referred to as "The Rome Meetings" and "Statements," respectively) -- came following repeated failures by the Majority to coordinate the work effort with the Minority. The decision to publish the reports was a peremptory decision by the Chairman of the Committee to terminate Minority participation in an amendment process that, while some might consider delaying by cavillation, had been well-established and productive in all previous stages of the investigation. As partisanship corrodes the value of intelligence, partisanship poisons intelligence oversight.

(U) The reports, as a direct result of this unnecessarily partisan process, are inconclusive, misleading, incomplete. (For detailed substantiation of this assertion, I associate myself with the Additional Views of the Vice Chairman.) It is both sad and ironic that the impressive and historic efforts that began with the publication of Phase One in 2004 ended with a divided vote on incomplete products on April Fool's Day, 2008.

"The Rome Report"

(U) An American official not part of the Intelligence Community meets with a controversial Iranian in a bar. A plan is drafted on a napkin. (!) For \$5 million, it is proposed



[REDACTED]

that traffic can be jammed in Tehran. For more investment, it is insinuated that regime change can be effected. Here is the punchline to this joke: *The Senate Select Committee on Intelligence investigates this as part of its review on Iraq intelligence failures.*

[REDACTED] The colorful scene – not an intelligence activity, according to this report, as well as common sense – occurred during the period of the “Rome meetings,” which refers to several days in December of 2001 when two Department of Defense officials met with two Iranian former officials (one a member of the Islamic Revolutionary Guards Corps and another associated with the “intelligence establishment of Iran,” although the Committee’s report provides no further clarity on his association) to gather information on developments in Iran. The meeting was initiated by an American scholar from a conservative think tank, operating independently, and the Iranian expatriate and Iran-Contra figure Manucher Ghorbanifar. The meeting was facilitated by [REDACTED]

(U) The meetings received prior approval by the National Security Council. The DoD participants were there based on their long-standing and substantive knowledge of Iran and Farsi. The American scholar had over 20 years of experience on the subject.

(U) American citizens should be asked whether they would expect their government to respond to offers for substantive meetings on sensitive subjects – and Iran remains to this day a critical subject, and the desire for insights into Iran immediately following September 11 would not, in my opinion, be considered outlandish.

(U) The Committee report says:

“The Committee’s review of applicable laws and regulations indicates that Deputy National Security Advisor Hadley and Deputy Secretary Wolfowitz acted within their authorities in directing DoD personnel to attend the Rome meeting. The final version of the Counterintelligence Field Activity’s report also identified no violations of law regarding the DoD contacts with Mr. Ghorbanifar as of the date their review was halted.”

(U) At this point, the reader may pause to ask: “What does this have to do with Iraq?” The terms of reference determining the scope of “Phase Two,” articulated in a press release by the Committee on February 12, 2004, give no insight. The investigation into the Rome meetings was about Iran, not Iraq, and never appeared to me to be related to completing the significant investigation this Committee had conducted on intelligence failures leading to the Iraq war. In a partisan Committee, as this one has sadly become, the Majority has within its purview the ability to conduct any investigation it deems worthwhile. That it did not conduct the review into the “Rome meeting” separately from the Iraq review and instead insisted on conducting this investigation into this Rome meeting about Iran as part of our investigation on Iraq leaves the proponents of this approach explaining a rationale I cannot, in good faith, articulate on their behalf.

(U) The conclusions reveal the nullibiety of the Committee’s effort. The first and third conclusions appear to give bureaucratic direction on how to hold meetings. NSC Deputy Hadley

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[REDACTED]

is, according to the report, mildly chastised for failing to inform DCI Tenet and Deputy Secretary Armitage of the “full nature of the planned contact,” although anyone reading the report would discern that the “full nature” was not able to be known until after the meetings were actually held. The third conclusion criticizes participants for withholding certain information about these meetings. Keeping in mind that the Committee report itself makes clear the Committee’s lack of understanding of what intelligence collection actually is, and reminding one that the report cites no laws or authorities broken or compromised, the lack of complete clarity between government agencies regarding certain meetings does not by any stretch of the imagination reach to a level of “stove-piping” or other act of legitimate intelligence oversight concern.

(U) What is particularly disturbing about the conclusions to this report is the bandying of the term “inappropriate.” The role of the U.S. citizen playing interlocutor to these meetings is “inappropriate.” The handling of information was “inappropriate.” What does “inappropriate” mean in this context? What is the norm for “appropriate”? As government officials, we deal within the lines of authority, regulation, law. Actions can be deemed to be within or outside of those lines, when they are the latter they are unauthorized, in violation of regulations, illegal. No action reviewed in this report is so deemed. Too often these days, it seems that when one seeks to criticize without substance or standing, one is reduced to uttering that something is “inappropriate.” In Washington today, this has come to be the cheap calumny by the callow-headed.

(U) Every exercise of this Committee should seek opportunities to expand the understanding of intelligence – for Members of Congress, at the very least and, when the investigations result in public reports, for the public, which needs to be educated on the important role of intelligence in our democracy. Near the conclusion of this report we find, “There can be varying opinions on the extent to which the Rome and Paris meetings represented intelligence information collection.” Couldn’t this report have reviewed and articulated the various definitions of “intelligence collection,” as understood in law and tradecraft? Is a meeting between an American official who is not a member of the Intelligence Community and a foreigner “intelligence collection”? (Hint: It is not.) On another point, the CIA has, through good and bad experience, developed a formal method for labeling foreign individuals “fabricators” and “information peddlers.” What is the formal procedure for doing so? What are the implications, and are there regulations, for policymakers for subsequently dealing with individuals so labeled by the Intelligence Community? In the murky world of betrayed loyalties and stolen secrets, are “fabricators” and “information peddlers” ever again worthwhile sources? Finally, what are the guidelines for CIA officers, particularly serving in Stations overseas, for obtaining information on activities of American citizens, particularly U.S. government officials? Is it ever the norm for officers to seek information on U.S. policymakers from liaison services? All of these questions, in my opinion, begged to be addressed by the material covered in this report.

(U) Instead, the Committee reviewed hundreds of pages of testimony and documents on the bureaucratic results of these meetings. Ultimately, the Rome meetings went nowhere. There was no policy action – certainly no covert action – initiated or even contemplated by government officials. It was a classic Washington episode: Meetings were held, no action was taken – but an

[REDACTED]

investigation was conducted. This was an investigation which, like the meetings of officials not in the Intelligence Community not dealing with Iraq, went nowhere.

“Statements”

(U) There continues to be debate over whether the Committee should investigate the use of intelligence by policymakers advocating war in Iraq. It is questionable that, in this particular exercise, the Committee excluded for consideration Congress, which exercised its constitutional policy making authority when it voted on the joint resolution to authorize the use of force against Iraq in October of 2002. It is profoundly disappointing that, in its illogical haste to terminate “Phase Two,” the Committee’s majority made no effort to allow those in the executive it cites in this final report to explain how they weighed intelligence in the context of policy deliberation. By failing to do so, the Committee once again failed to illuminate the role the use of intelligence plays in the policy making process.

(U) Seventy-seven Members of the United States Senate voted in favor of H.J. Res. 114, the joint resolution authorizing the use of United States Armed Forces against Iraq. I don’t know how many read the October 2002 National Intelligence Estimate. Those of us on the Committee were privy to hearings as well as intelligence products. Five Members of the Committee at that time (all Democrats) voted against the resolution, 12 Members voted in favor. Of the 12 Members of the current Committee present then, 9 voted in favor, 3 against (all Democrats). Of the whole Senate, one Republican voted against; 30 Democratic senators, including a current presidential contender, voted in favor of the resolution authorizing the use force against Iraq.

(U) Many Members of Congress have had reason to revisit their votes, and the reasons have been varied. What is interesting to note is how very few have hung their votes completely on how they understood the intelligence at the time. Many Members did not avail themselves of the intelligence (others claim to have relied on their staffs’ rendering of the National Intelligence Estimate). How many policymakers relied completely on intelligence to make their policy determination? I would argue none, because if a policymaker did rely solely on intelligence, they would be forfeiting the wider considerations prerequisite to being a policymaker. This applies, I have no doubt, to policymakers in the Administration. And this is why it is a failure of analysis, let alone of fairness, that the Committee investigation on this particular report did not even attempt to solicit from Administration officials cited in the report their views on how they weighed intelligence in the context of their deliberations.

(U) The report’s conclusions articulate what is already well-known for those of us who have labored through document review of “Phase One” and have heard – originally and repeatedly – the statements of Administration officials. On matters of capability, the report concludes that statements by Administration officials *were substantiated* by the intelligence on questions of nuclear, biological, chemical weapons and weapons of mass destruction in general. (The report notes that some statements on nuclear capability did not reflect disagreement within the IC, some on weapons of mass destruction did not reflect IC caveats known at the time, and that the Secretary of Defense’s statement on underground WMD facilities’ vulnerability to airstrikes was not supported by intelligence.) On statements by Administration officials on

[REDACTED]


Iraq's link to terror groups other than Al-Qa'ida, the statements *were substantiated by the intelligence, as were statements on Zarqawi's presence in Iraq, and statements that Iraq and Al-Qa'ida had had contacts.* (The report notes, however, that "Statements and implications by the President and Secretary of State *suggesting* that Iraq and Al-Qa'ida had a partnership, or that Iraq had provided Al-Qa'ida with weapons training, were not substantiated by the intelligence." I emphasize the verb "suggesting," noting officials never "asserted" such a partnership.) Statements on Saddam's intentions – i.e., speculation on his future actions – had no intelligence support, and policy makers appear to me to be clear in their public statements that such speculation – while certainly legitimate, given the pollyannish lack of imagination we had on the Al-Qa'ida threat prior to 9/11 – was never an established "known," but that policymakers would never again commit the absence of imagination that had allowed Al-Qa'ida to strike us unprepared.

(U) That "Phase One" concluded that this consensus between statements and intelligence was not the result of pressure from officials is relevant²⁰⁹. That the overall gist of this report is that Administration officials' statements were supported by intelligence assessments comes as no relief, considering how utterly bad the underlying intelligence was.

(U) There is, in my opinion, no excusing the spectacularly bad intelligence prepared by the IC in the run-up to the war in Iraq, particularly on the question of weapons of mass destruction. However, the IC needs to be defended in one critical aspect: bad intelligence cannot be used wholly as the excuse for the decision to go to war. To do so would be to not only blur, but to eliminate, the line between policy-making and intelligence. To eliminate that line is to do no less than corrode a fundamental pillar of a democratic society.

(U) *Intelligence informs policy. It does not dictate policy.* The policymaker who ignores the contribution of intelligence denies a potentially valuable source of analysis on difficult subjects about which the policy maker requires the widest breadth of insight. The intelligence analyst who writes analysis without subjecting it to competitive hypothesis testing fails the policymaker. The policy maker who relies solely on intelligence should be dismissed, for they do not grasp the most fundamental truth of intelligence – that it is an attempt to penetrate denied knowledge and will almost always be incomplete. The intelligence professional who seeks to make policy should also be dismissed, for the nature of intelligence – the need to keep and steal secrets, to entice foreigners to betray their governments, and act covertly on behalf of our government – must be kept distinct from the policy process in order for a democratic society to function. By keeping that distinction clear, the different roles of policymakers and intelligence professionals are maintained. Intelligence professionals are responsible for their failures in intelligence collection, analysis, counter-intelligence and covert action. Policymakers must also bear the burden of their mistakes, an entirely different order of mistakes. It is a pity this report fails to illuminate this distinction.

²⁰⁹ . Conclusion 83: "The Committee did not find any evidence that Administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities." Conclusion 102: "The Committee found that none of the analysts or other people interviewed by the Committee said that they were pressured to change their conclusions related to Iraq's links to terrorism."



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